

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF OREGON

3 PORTLAND DIVISION

4 UNITED STATES OF AMERICA, )

5 Plaintiff, )

Case No. 3:12-cv-02265-SI

6 v. )

7 October 4, 2018

8 THE CITY OF PORTLAND, )

9 Defendant. )

Portland, Oregon

10 STATUS CONFERENCE

11 TRANSCRIPT OF PROCEEDINGS

12 BEFORE THE HONORABLE MICHAEL H. SIMON

13 UNITED STATES DISTRICT COURT JUDGE

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TRANSCRIPT OF PROCEEDINGS

(October 4, 2018)

(In open court:)

THE COURT: Good morning.

DEPUTY COURTROOM CLERK: Your Honor, this is the time set for a status conference in Civil Case 12-2265-SI. United States of America v. City of Portland.

Could I have counsel in court, beginning with plaintiff, the government, identify yourself for the record, please?

MR. HAGER: Jared Hager on behalf of the United States.

MR. GEISSLER: Jonas Geissler on behalf of the United States, Your Honor.

MS. CHAMBERS: Kristen Chambers.

THE COURT: I think the U.S. Attorney was going to introduce himself.

MR. WILLIAMS: Bill Williams on behalf of the United States.

THE COURT: Good morning.

MS. GOWIE: Renata Gowie on behalf of the United States.

THE COURT: Good morning. All right. Ms. Chambers.

MS. CHAMBERS: Kristen Chambers for Albina Ministerial Alliance Coalition for Justice and Police Reform.

MS. ALBIES: Ashlee Albies for the AMA Coalition as

1 well.

2 THE COURT: Good morning.

3 MS. CHAMBERS: I would like to introduce our clients  
4 Dr. Haynes and Dr. Bethel.

5 THE COURT: Good morning.

6 MR. CHAVEZ: Juan Chavez for the Mental Health  
7 Alliance. I'm joined also by Mr. Bob Joondeph, who is with  
8 Disability Rights Oregon.

9 THE COURT: Welcome.

10 MR. KARIA: Good morning, Your Honor. Anil Karia for  
11 Police Association.

12 THE COURT: Good morning.

13 MS. REEVE: Tracy Reeve on behalf of the City of  
14 Portland, Your Honor.

15 THE COURT: Good morning.

16 MR. VANNIER: Good morning, Your Honor.  
17 Denis Vannier for the City of Portland.

18 THE COURT: Good morning.

19 MR. AMBERG: Mark Amberg for the City of Portland.

20 THE COURT: Anyone else?

21 All right. Welcome, all.

22 I understand that the City has recently adopted the  
23 regulations for the ordinance establishing the PCCEP, that  
24 training has taken place and is taking place and that the first  
25 meeting is scheduled for early November.

1           So to the extent that I was hoping to hear today "How are  
2 things going with the PCCEP," I understand the limitations on  
3 our information.

4           As you all know, when we had our last conference, which  
5 was the annual conference earlier this spring, I approved, in  
6 large part, the amendments that the parties had agreed upon to  
7 the settlement agreement, and I deferred the approval of the  
8 amendments relating to the replacement of the community  
9 oversight board -- the COAB with the PCCEP structure -- so we  
10 can learn a little bit more about how that was proceeding  
11 before giving approval.

12           One of the concerns that I had is that if I were to  
13 approve that at that time, the way the amendment is structured,  
14 I believe, would not provide for much continuing court  
15 oversight of any changes to the PCCEP mechanism as long as it  
16 was consistent with what was put forth in the amendment. That  
17 gave me some concern. I wanted to make sure it was working  
18 before essentially writing a blank check.

19           Looking at this entire settlement in hindsight, I'm not  
20 quite so sure that it was the right thing to do to approve the  
21 settlement at the outset without having a court-approved  
22 monitor. But that's what both parties presented to me. It was  
23 still in the area of a sufficiently novel and creative solution  
24 to a serious problem. I wanted to see how that worked, and so  
25 I gave approval to it after our fairness hearing. But I'm

1 still reluctant to turn over a blank check, and so I do want to  
2 see how things have been going. That's why I did ask for this  
3 six-month interim status conference.

4 I have read, and I appreciate everyone's report. I did  
5 read the City of Portland's memorandum updating me on the  
6 status, along with the declaration from Ms. Reeve, the  
7 declaration of Mandi Hood, and the attachments. I appreciate  
8 that.

9 I have read the plaintiff's post-status conference status  
10 report, and I appreciate the plaintiff's views on it and also  
11 answering the questions that I raised at our last meeting; so  
12 thank you for doing that.

13 I have received the status report and read it from the  
14 Albina Ministerial Alliance, as always, found it very helpful  
15 and informative; so I appreciate your efforts there.

16 I've also received four pieces of written correspondence  
17 that I found very helpful. I received from the League of Women  
18 Voters a memorandum dated October 1st. I have received from  
19 the -- Mr. Dan Handelman and Portland Copwatch a very  
20 informative and helpful email dated October 3rd, and I've also  
21 received helpful and informative emails from Ms. Anne Brayfield  
22 and Mr. Joe Walsh.

23 I think I've asked my courtroom deputy to circulate those  
24 to the parties. If you don't have copies of any of those four  
25 items, let Mary know, and we'll make sure you have them.

1           In addition, as you saw in the agenda that I distributed,  
2 what I plan on doing is hearing some presentation and comments  
3 from the United States, as plaintiff, first; followed by the  
4 City of Portland; followed by the Albina Ministerial Coalition;  
5 followed by the Portland Police Association; followed -- if the  
6 compliance officer of the COCL wants to make any comments, that  
7 would be welcome as well; followed by friend of the court, the  
8 Mental Health Alliance. And then we would hear any comments  
9 from any members of the public who wish to provide public  
10 comments beyond what I've just described and what we have all  
11 just heard. I think there was a sign-up sheet that -- Mary, do  
12 you -- was that distributed back there and do we have --

13           DEPUTY COURTROOM CLERK: You know, I don't have it.

14           THE COURT: So we'll see how that looks, and I'll  
15 inform you how that looks. Depending upon how many people wish  
16 to speak, if we can get everything completed before our lunch  
17 break, we'll do it; if we can't, I've set aside the entire day  
18 for this hearing, if needed, and -- but we will have a lunch  
19 break if we're going to do that. And so when I get the sign-up  
20 sheet of who wishes to speak, we'll give further information  
21 and direction about that.

22           But that's it for my preliminary or introductory comments.  
23 Again, I do appreciate all the hard work, not only that you all  
24 have done in getting me the reports that you have provided, but  
25 the real hard work, the real important work, is done not in



1 this courtroom but as part of implementation of the settlement  
2 agreement. And from what I have read, everyone has been  
3 working hard to implement the settlement agreement and the  
4 spirit behind it, and I recognize that and I appreciate that.

5 I look forward to comments from the United States.

6 MR. HAGER: Thank you, Your Honor. We respectfully  
7 renew the joint stipulated motion to amend the settlement  
8 agreement. That's electronic court filing ECF 157. In May,  
9 the Court approved most of the proposed amendments through  
10 ECF 171. The remaining amendments to the framework for  
11 community engagement replacing the community oversight advisory  
12 board with the Portland Committee on Community-Engaged Policing  
13 are the only items before the Court today.

14 The Court has conditionally approved these changes. That  
15 must mean, at a minimum, on their face, these changes aren't  
16 unreasonable, aren't patently inadequate.

17 The Court has allowed the parties to perform as if the  
18 amendments were approved, and we have.

19 As a result, we don't have to rely just on a facial  
20 assessment at this time. We have experience too. The PCCEP  
21 reflects an intentional and inclusive effort to create a  
22 perpetual body to restore community confidence in the Portland  
23 Police Bureau through systemic oversight and engagement. It  
24 deserves our faith and our support.

25 Your Honor, we ask that you now give full unconditional

1 approval to the Portland Committee on Community-Engaged  
2 Policing. Our request is supported by four reasons.

3 First, the amendments are the product of a process  
4 established by the agreement at paragraph 184. That process  
5 was previously ruled to be fair, adequate, and reasonable. And  
6 that's ECF 86, 96, and 99.

7 To briefly remind the Court, the agreement builds in  
8 substantial safeguards to ensure that amendments are fair and  
9 worthy of approval. The changes were proposed by the City, but  
10 it took an act of council. The council gave multiple  
11 five-to-zero unanimous votes but not before much public comment  
12 and many revisions.

13 In short, Your Honor, the Court should approve the changes  
14 because they're stipulated and because they're presented in  
15 accordance with paragraph 194.

16 Second, in April the Court conditioned approval on  
17 appearance at this hearing for this Court's further evaluation  
18 of whether the PCCEP process is going well, specifically to  
19 assess if the committee gets formed according to plan and  
20 functioned according to its design. And I'll reference  
21 page 139 and 140 of the Court's transcript.

22 The process is going well. The effort has been deliberate  
23 and thorough, facilitated by effective leadership, as described  
24 in the City status report. ECF 183 to 185.

25 The City, the mayor's office, and the facilitator have

1 welcomed us, the United States, and the compliance officer at  
2 every step along the way, and there have been many steps to  
3 date.

4 The committee was formed as required by paragraph 141 and  
5 has been given the authority described in paragraph 142.

6 Now, that paragraph sets minimum authority -- a floor.  
7 The committee can go further, and, in fact, the plan does go  
8 further. PCCEP's authority includes evaluating performance.  
9 It includes oversight, independent oversight, and it includes  
10 the ability to make recommendations. And I'll direct the Court  
11 and the public to Section VIII of the PCCEP plan regarding  
12 statement of work.

13 The committee members are diverse and personally invested  
14 in the mission of police reform as required by paragraph 143.  
15 The City is providing substantial administrative support an  
16 ongoing obligation paragraph 144.

17 Now, it's true, as the Court recognized, that PCCEP  
18 members are still in the middle of training. And their first  
19 regularly scheduled public meeting won't occur until November.  
20 But that shouldn't impact the Court's approval today. We  
21 shouldn't conflate adequacy of the amendment with adequacy of  
22 performance. That analysis isn't contemplated by paragraph 184  
23 or any legal standard, that I'm aware of, and it isn't needed  
24 in this case, Your Honor. The training is mandatory. It's  
25 required, and it's been scheduled. Regular public meetings are

1 mandatory. This group, Your Honor, is worthy of our faith.

2 Six months ago the PCCEP was just an idea, a written  
3 proposal. Today, it is 13 members. It is six alternates, and  
4 it's two expert facilitator groups. It has the support of  
5 Chief Outlaw and the rank and file officers of the police  
6 bureau as represented by Portland Police Association today. It  
7 has the support of Mayor Wheeler and city council and their  
8 staffs. Because the committee is functioning well to date, we  
9 ask that the Court also show its support by giving final  
10 approval for -- and cementing PCCEP's existence.

11 Third, the amendments should be approved today because  
12 they are fair, adequate, and reasonable. Notwithstanding any  
13 snapshot of performance. The changes are entirely consistent  
14 with the principles embodied by the agreement. They create a  
15 great chance of a lasting framework for community engagement  
16 and oversight.

17 The new framework addresses problems while preserving and  
18 enhancing the COAB's defining characteristics, including its  
19 mission to independently assess implementation of the agreement  
20 and its duty to regularly engage the public, elected city  
21 leaders, and the police bureau.

22 But PCCEP goes further than COAB by divorcing the body  
23 from the compliance officer, by untethering it from the four  
24 corners of the settlement agreement, the amendments give  
25 community oversight and engagement a longer life, a broader

1 mandate, and the empowerment of self-determination. The  
2 changes are facially reasonable. The plan is facially  
3 reasonable. The United States respectfully submits that the  
4 committee can and should be expected to discharge its work in  
5 good faith through public meetings. Accordingly, the Court  
6 should approve the changes.

7 Finally, the United States believes that committee members  
8 and the committee itself would benefit from having the Court's  
9 full unconditional approval today, not later.

10 Conditionality is not without cost. Conditionality casts  
11 a cloud. Potential disapproval could very well discount the  
12 perceived value of an all-in effort of the members. We know  
13 from experience that volunteering in this context is a  
14 significant burden. There's good cause not to pile on this  
15 burden, the weight of a conditional existence, based on these  
16 members' performance.

17 The Court's approval today would provide a real benefit to  
18 committee members as they tackle tough topics for the first  
19 time as a group. Faith and support build confidence, and  
20 confidence breeds strength, courage, and success. This  
21 committee merits our confidence. At its core, conditional  
22 approval does one thing. It preserves the possibility of  
23 rejection.

24 At this stage, however, with the City now fully committed  
25 and with volunteer members on the cusp of investing significant

1 time and effort, rejecting the PCCEP amendment would be a  
2 disproportionate response to potential problems that might  
3 arise. I can think of many less intrusive alternatives.  
4 Collaboration among the parties in the amici, compliance  
5 officer reports, status conferences with the Court. All of  
6 these would be better than continuing that cloud of potential  
7 rejection.

8       Whatever must happen ultimately, should happen  
9 immediately. If the Court were to reject the PCCEP framework,  
10 it would be useful to know sooner. Just the same, the Court  
11 should approve the framework if it is fair, if it is  
12 reasonable, if it is an adequate way to meet the purpose of  
13 restoring community confidence, and which believe that it is.

14       Your Honor, we respectfully ask you to grant the joint  
15 motion to amend the settlement agreement.

16       THE COURT: Thank you, Mr. Hager. Let me ask you a  
17 few follow-up questions if I may. The AMA coalition and their  
18 status update notes at the top of page 2 that for the past  
19 two years the City has been in noncompliance with the  
20 settlement agreement in the area of community oversight.

21       Does the government -- does the plaintiff agree?

22       MR. HAGER: We certainly believe that we have not  
23 been able to find compliance given the nonexistence of the  
24 Community Oversight Advisory Board.

25       THE COURT: In the plaintiff's view, have all parties

1 been acting in good faith since the outset of the settlement  
2 agreement?

3 MR. HAGER: I think so. Yes, Your Honor.

4 THE COURT: And so notwithstanding everyone's acting  
5 in good faith, we still have not -- we still had a situation of  
6 noncompliance with the settlement agreement; is that right?

7 MR. HAGER: That's right.

8 THE COURT: Okay. Now, the AMA also points out in  
9 the middle of page 2 that whereas the settlement agreement  
10 required court approval of any amendment or modifications, the  
11 details of the PCCEP, the Portland Committee on  
12 Community-Engaged Policing, are set forth in a document that is  
13 separate from the settlement agreement and can be modified  
14 without the -- as AMA puts it, without entry into the court  
15 record.

16 Does plaintiff agree with that?

17 MR. HAGER: I think we would reserve our right to  
18 disagree with the premise. Paragraph 184 suggests that  
19 amendments and the amendment process, which has been deemed  
20 fair, adequate, and reasonable, allows the parties, with an act  
21 of council, with the agreement of the United States  
22 collaboration of the parties, to amend the agreement without  
23 further action of the Court. We would preserve that argument.  
24 The point is well taken, though.

25 And to not fight the hypothetical, the second aspect of

1 that, we do believe there's some value to having a community  
2 board have some flexibility to change some of the terms without  
3 having an act of council, without having to run changes up the  
4 flagpole of the United States, which can be time-consuming, to  
5 give it that ability to respond to problems more immediately.

6 So that was by design to have some of the bylaws or the  
7 specifics outside of the agreement. But it is well taken that  
8 that can be changed without court oversight.

9 Now, it cannot be changed without the approval of the  
10 United States or without collaboration with both the AMA and  
11 the PPA, which is codified in the settlement agreement.

12 THE COURT: And you say "collaboration," does that  
13 mean that the AMA has veto authority to override or overrule  
14 any proposed changes to the PCCEP agreement?

15 MR. HAGER: That wouldn't be my understanding of the  
16 definition of "collaboration," but at the same time, I would  
17 just want to note for the record that, you know, we have a  
18 democratically elected local city council, and they have been  
19 very responsive to concerns raised by the AMA and other  
20 citizens too.

21 THE COURT: And I certainly mean no disrespect for  
22 our democratically elected city council at all by this process,  
23 and I assume neither does the United States.

24 MR. HAGER: That's right.

25 THE COURT: But the United States sued the City,



1 didn't they?

2 MR. HAGER: That's right, Your Honor.

3 THE COURT: And I assume you had a good-faith basis  
4 for bringing this lawsuit?

5 MR. GEISSLER: We did, Your Honor.

6 THE COURT: All right. You mentioned that the  
7 members have been appointed.

8 Am I correct that the city council just affirmed the  
9 appointment of the members a week ago yesterday?  
10 September 26th?

11 MR. HAGER: That's correct.

12 THE COURT: And you mentioned that the first public  
13 meeting has not yet occurred.

14 MR. HAGER: That's correct.

15 THE COURT: And it's scheduled for when in November  
16 of 2018?

17 MR. HAGER: That will be up for the board to decide  
18 or the committee to decide, and I don't think they've tackled  
19 that issue yet.

20 THE COURT: Have I heard you -- I'm not sure I heard  
21 this correctly, but I thought I heard you say the committee is  
22 functioning well today. You didn't mean the PCCEP committee,  
23 did you?

24 MR. HAGER: Oh, I did, Your Honor.

25 THE COURT: But they have not yet had their first

1 public meeting. Am I correct?

2 MR. HAGER: Part of the PCCEP functioning well, I  
3 believe, is the training that they have been undertaking. Part  
4 of the PCCEP functioning well is the formation of the PCCEP,  
5 and that process went well with diverse input and diverse  
6 results.

7 THE COURT: So we have good input, a composition of  
8 the committee that the United States supports. But when you  
9 say the committee is functioning well, you are not intending to  
10 imply that they have had well functioning meetings, public  
11 meetings, because those haven't yet occurred and are not yet  
12 scheduled to occur until November. Am I correct?

13 MR. HAGER: That's right, Your Honor. The statement  
14 of work is a little bit broader than just public meetings. It  
15 does require some of these training activities, not only to get  
16 to know each other and the process of being a committee under a  
17 city structure, but engaging with the police bureau, through  
18 ride-alongs and community academy, and that's happening this  
19 week. The final trainings will occur next week.

20 THE COURT: And once we start with the public  
21 meetings in November, what's the anticipated frequency of  
22 public meetings? Is it --

23 MR. HAGER: Well, it's at least once per month, and  
24 that is a floor again. The committee will be free to decide  
25 for itself if it wants to meet more regularly than that. In

1 addition, there have been the allowance for subcommittees and  
2 subcommittee meetings at the behest of the AMA.

3 THE COURT: I take it, because I have not seen any  
4 paperwork or submission on this point, my assumption is that I  
5 do not have a recommendation from the committee itself, as a  
6 committee, the PCCEP committee, as a PCCEP committee, saying  
7 they think it is a good idea to approve the amendment at this  
8 time as opposed to wait to see how things are going.

9 Am I correct that I don't have that formal recommendation  
10 from the committee yet?

11 MR. HAGER: I certainly have not seen that formal  
12 recommendation, Your Honor.

13 THE COURT: All right. Thank you very much,  
14 Mr. Hager. I do recognize the good faith and the hard work  
15 that has been put in, frankly, by everyone. You sense some  
16 skepticism in my questions, but please do not interpret that  
17 skepticism as a lack of respect for everyone's good faith and  
18 hard work.

19 MR. HAGER: Very good. Thank you, Your Honor.

20 THE COURT: The skepticism is simply about when is  
21 the right time for the Court to give approval to an agreement  
22 or an amendment that the Court will then not really be able to  
23 continue to monitor if further amendments are needed or even  
24 brought about.

25 MR. HAGER: I understand.

1 THE COURT: Thank you.

2 All right. I look forward to hearing comments from the  
3 City of Portland.

4 MS. REEVE: Thank you, Your Honor. Tracy Reeve,  
5 Portland city attorney, on behalf of the City of Portland.

6 The City is delighted to be here today to report back to  
7 the Court, the parties, the amici, the public, and to welcome  
8 the Mental Health Alliance as an additional amicus.

9 With the help and engagement of the community, the  
10 evaluation committee, the Selection Advisory Committee, the  
11 enhanced amicus Albina Ministerial Alliance Coalition for  
12 Justice and Police Reform, the Department of Justice, the City  
13 and PCCEP staff, and the hard work of the PCCEP facilitators.  
14 Thirteen outstanding individuals from diverse backgrounds  
15 across a broad spectrum of our community have been seated on  
16 the Portland Committee on Community-Engaged Policing.

17 I would like to ask that any of the PCCEP members who were  
18 able to be present today, please stand to be acknowledged when  
19 I read your name. The 13 new PCCEP members are  
20 Sebastian Chevalier. And Sebastian is a youth member.  
21 Yolanda Clay, Lakayana Drury, LaKeesha Dumas, Bob Dye,  
22 Sharon Gary-Smith, Aden Hassan, Andrew Kalloch, Michelle Lang,  
23 Patrick Nolen, Sam Sachs, Zachary Thornhill, and  
24 Kalonji Williams -- excuse me, Kalonji Williams, another youth  
25 member.

1 THE COURT: Let me interrupt right there and say I do  
2 recognize and appreciate your willingness to serve on this very  
3 important committee for the good of our entire community, so  
4 thank you.

5 MS. REEVE: Thank you, Your Honor.

6 The City is also very grateful that the PCCEP members have  
7 agreed to serve and hopes the Court will have the opportunity  
8 to hear from some of them during the public testimony of  
9 today's proceedings if they so elect.

10 The PCCEP will hold its first public meeting next month,  
11 as the Court has heard. After close to two years without a  
12 functioning community engagement body, this is a huge step  
13 forward.

14 I'm going to deviate a little bit from my prepared remarks  
15 to address one of the questions -- actually, two, which I think  
16 are related, questions about the process, which is the Court  
17 asked is it true that the City has been in noncompliance for  
18 two years, and it's of course true that the City has not been  
19 in substantial compliance for two years. And the Court's  
20 question about whether it's appropriate to have the process for  
21 making changes to the community engagement plan occur outside  
22 the framework of amendments to the settlement agreement.

23 I think those two things are not unrelated. The City was  
24 without a functioning community engagement body for two years  
25 because, once the problems developed with the existing

1 structure, the City was required to -- under the terms of the  
2 settlement agreement, to go through the process of amending the  
3 agreement. That process, in large measure, is what caused the  
4 delay of two years. Because there was a lengthy collaboration  
5 process, there were a number of city council hearings on the  
6 proposed amendments before we even got to that process to  
7 select, the City collaborated with the Department of Justice  
8 and the AMAC about the amendments. There was a mediation  
9 process.

10 There were then three or four city council hearings, at  
11 which there was robust public participation and testimony. The  
12 council finally approved those amendments in late August of  
13 2017 for the new structure for the community engagement body.

14 It then took until December 26th of 2017 to get final  
15 approval from the Department of Justice and all of the parties  
16 to get the stipulated motion filed. And then through the  
17 process since that time, then the hearing was held before this  
18 Court in April, but another status conference was set now.

19 So one of the reasons that the City is --

20 THE COURT: And the committee appointed last week or  
21 the -- and the committee approved by the city council last  
22 week?

23 MS. REEVE: Correct. Correct. And that process --  
24 and I'll go a little bit through what that process was, but my  
25 point is simply that because there is a very exhaustive process

1 that has to be followed for amendments to the settlement  
2 agreement, that also proved to be a process that was very  
3 cumbersome when difficulties with the community engagement  
4 structure were identified, and the parties very purposefully  
5 drafted the amendments so that that process would not have to  
6 occur should future difficulties arise so that we wouldn't have  
7 a delay of that length of time again, and the idea is to allow  
8 more nimble efforts to correct difficulties that arise while  
9 still having safeguards in place.

10 And those safeguards that are in place include  
11 consultation with the Portland Police Association and enhanced  
12 amicus AMAC. They include Department of Justice approval. And  
13 because this plan was set up and approved by city council, they  
14 also include city council approval.

15 And so that is certainly a robust process, but it is one  
16 that is not as lengthy and time-consuming as securing actual  
17 amendments to the settlement agreement.

18 I just want to second what the United States said. The  
19 other reason that the PCCEP plan was designed to be referred to  
20 in the settlement agreement and to have floor requirements set  
21 forth in the settlement agreement, but to be independent, is  
22 that we're establishing the PCCEP at a very different moment  
23 than was -- the COAB was established.

24 The settlement agreement was negotiated in 2012, and at  
25 that point, the terms regarding the COAB were contemplated.

1 The COAB was intended to be created extensive with the  
2 beginning, essentially, of the City's compliance efforts.  
3 We're six years down the road from that point in time, and the  
4 City is much farther along in its path to substantial  
5 compliance than it was in 2012. All of the parties and the  
6 City certainly understand that robust community engagement is  
7 necessary to fully achieve the purposes contemplated by the  
8 settlement agreement. Constitutional policing and a trusting  
9 relationship between the Portland community and the police  
10 bureau which serves that community and the other city public  
11 safety functions.

12 In order to ensure that that body continues to perform  
13 that crucial function or to help perform that crucial function,  
14 it's essential that the PCCEP have an existence that continues  
15 well beyond whatever date it is when the City achieves  
16 substantial compliance and Your Honor finally dismisses this  
17 case.

18 And so that is the -- one of the major reasons that the  
19 PCCEP was designed to have, as I say, four requirements in the  
20 settlement agreement but an existence separate and apart from  
21 the settlement agreement that will continue after the  
22 settlement agreement.

23 I would like to -- I would also like to concur with the  
24 United States to the point that the AMAC raised in its status  
25 report, that it's true that the primary focus of the PCCEP is



1 to serve that crucial community engagement function. But the  
2 PCCEP's mission is broad, and the PCCEP also has an oversight  
3 role with regard to the settlement agreement and the authority  
4 to independently assess the settlement agreement using the  
5 tools outlined in the plan. And there are many tools outlined  
6 that PCCEP has the ability to gain information, to gain written  
7 responses from the City. It really has much more robust tools  
8 than the COAB had.

9 AMAC also noted that under the PCCEP plan, PCCEP members  
10 are appointed by the mayor, which is, of course, true.

11 Again, that was by design so that there is a more straight  
12 connection between the PCCEP and the politically accountable  
13 mayor, who's also the police commissioner. And should a  
14 different commissioner be the police commissioner, the PCCEP  
15 will also have that relationship.

16 And, again, one of the difficulties created with the COAB  
17 was that it was not a part of the -- or at least not clearly a  
18 part of the City but was working through the COCL which ended  
19 up -- although it was well-intentioned, it ended up being an  
20 awkward structure.

21 The selection process was overseen by a Selection Advisory  
22 Committee, which had one community member appointed by each  
23 city commissioner, including the mayor. All applicants who met  
24 the minimum required qualifications for eligibility were  
25 evaluated by the Selection Advisory Committee which determined

1 who to interview. All appointed PCCEP members, all of the 13  
2 members who had been appointed, were interviewed and  
3 recommended by the Selection Advisory Committee, and the final  
4 appointment decision was made by the mayor in consultation with  
5 council offices and then the city council confirmed all the  
6 PCCEP members.

7 So there was robust community engagement and involvement  
8 by city council members other than the mayor.

9 I'd also like to briefly touch on some of the other  
10 concerns raised by the Albina Ministerial Alliance Coalition in  
11 its submission. One of the concerns is that -- and I'm quoting  
12 from their brief. It is critical for the community to have a  
13 live voice at the meetings, not solely via electronic means,  
14 and that decisions are not made before public comment.

15 And the City took this concern to heart, and the amended  
16 PCCEP plan specifies that meeting agendas shall be structured  
17 in a manner that provides a meaningful opportunity for public  
18 comment. Prior to the conclusion of deliberations and voting,  
19 it also provides that public meetings will be generally open to  
20 the public, and it also provides that facilitators will ensure  
21 that no votes are taken without the public having the  
22 opportunity to be present.

23 The AMAC also addressed a concern about PCCEP's limited  
24 ability to meet without the public present should good cause be  
25 shown due to safety concerns. AMAC stated that this language

1 should be limited to legitimate threats to safety, and the City  
2 and the facilitators concur with that. The City does not  
3 believe that legitimate threats to public safety should be  
4 limited to physical safety, but it does concur that good cause  
5 needs to be shown and legitimate threats to safety need to be  
6 shown.

7 The City will apply the good-cause requirement to mean  
8 that PCCEP could only meet in private in the face of a  
9 legitimate threat to safety, such as physical violence or  
10 ongoing verbal abuse. Certainly not merely the discussion of  
11 uncomfortable topics.

12 The City also acknowledges AMAC's concerns about the  
13 timeliness of notice for meetings, and the PCCEP staff and  
14 facilitators have committed to providing a minimum of two weeks  
15 and generally at least three weeks of PCCEP meetings.

16 The PCCEP website will have all PCCEP notices, minutes,  
17 and reports posted and will link to the COCL's website for  
18 compliance reporting.

19 The City also acknowledges AMAC's legitimate frustration  
20 about quick requested turnaround times for reviewing documents  
21 and drafts and will try to do better. And we note our  
22 appreciation for AMAC's recent extensive participation in the  
23 PCCEP plan, amendment process and discussions back and forth.  
24 That process lasted approximately six weeks from the time that  
25 we contacted the AMAC. And during that period of time, a

1 meeting was held and numerous emails and correspondence were  
2 exchanged regarding actual language and the City and the AMAC  
3 were able to agree on almost all changes.

4 There was some time sensitivity, as the City needed to  
5 have the amend PCCEP plan approved by counsel and by the  
6 Department of Justice. After the consultation process and  
7 before the PCCEP members could be appointed and seated, and the  
8 City appreciations AMAC's quick turnaround time to enable us to  
9 accomplish that.

10 AMAC also raises a legitimate concern about ensuring a  
11 process for the selection of alternates to the PCCEP, and I'm  
12 happy to report on that. Six alternates were chosen by the  
13 mayor. Four adults and two youths. Those alternates have all  
14 been invited to participate in the current retreat and  
15 on-boarding process for PCCEP members, including participation  
16 in PPB ride-alongs and also the PPB community academy.

17 They're also welcome to attend all PCCEP meetings and  
18 subcommittee meetings and will be provided full access to all  
19 information that PCCEP members have access to. Alternates are  
20 not currently ranked, and this was intentional.

21 Because the City is not mandating their attendance at  
22 PCCEP meetings, given the substantial time commitment, should  
23 it become necessary to replace a current PCCEP member, the City  
24 will assess each alternate based on their level of  
25 participation in PCCEP activities and their familiarity with

1 the work of the PCCEP, along with their original application  
2 and interview, to determine who to appoint from the alternate  
3 pool.

4 In addition, in anticipation of terms expiring, the City  
5 will reopen the application process to interested Portlanders.  
6 And through this process, which will adhere to the parameters  
7 set forth in the PCCEP plan, the alternate pool will be  
8 expanded and replenished and alternates will continue to be  
9 trained alongside new PCCEP members.

10 The City did also consider AMAC's suggestion that the  
11 Selection Advisory Committee be retained to meet annually, but  
12 ultimately decided against it, given the burden this places on  
13 individuals who are not City employees whose time commitments  
14 cannot be foreseen and who are not otherwise connected to or  
15 obligated under the settlement agreement.

16 Nonetheless, every effort will be made should it become  
17 necessary to reconvene the original Selection Advisory  
18 Committee. And if that is not possible, the affected  
19 commissioners, those commissioners whose member was not able to  
20 continue, will be asked to appoint another committee member to  
21 serve. The City hopes that this information is responsive to  
22 the concerns raised by the AMAC in its memo.

23 I would like to very briefly touch on some of the steps  
24 the City has taken to initiate the PCCEP. And I'm not going to  
25 go through everything that's in our brief, but it may seem

1 like, "Well, why are you just now seating them?" Some of the  
2 difficulty -- among the many difficulties faced by the COAB,  
3 the City took to heart and really heard that the COAB was not  
4 given enough time for training, was not provided enough support  
5 to come together and coalesce as a group and establish shared  
6 goals and a shared work plan. And so the City is really  
7 committed to doing things differently this time.

8 The City, in -- as I mentioned, on December 26th of 2017,  
9 all parties and enhanced amicus Albina Ministerial Alliance  
10 filed a joint stipulated motion to enter the amended settlement  
11 agreement with the Court. The City issued a revised request  
12 for proposals for PCCEP facilitators in February. It was  
13 revised because the original RFP issued by the City in November  
14 did not generate as robust of responses as the City had hoped.  
15 And with the help of the evaluation committee, which the City  
16 did a renewed RFP in February 2018, and that evaluation  
17 committee was comprised of -- and I apologize if I'm  
18 mispronouncing anyone's name, Freda Ceaser, Director of Equity  
19 and Inclusion at Central City Concern. Dana Coffee from the  
20 Portland Commission on Disability. Jan Friedman, Attorney with  
21 Disability Rights Oregon. Janie Gulickson, Executive Director  
22 of the Mental Health Association of Oregon. Kalei Luyben, a  
23 member of the Albina Ministerial Alliance Coalition for Justice  
24 in Police Reform. And Daniel Portis-Cathers, a member of the  
25 NAACP.

1 THE COURT: And the Court does thank them and  
2 recognize them for their hard work and its important role.

3 MS. REEVE: The City initially set one facilitator,  
4 but when the responses were received, the evaluation committee  
5 determined that the top two candidates were phenomenal and that  
6 working together they would best serve to engage the community,  
7 and so two facilitators were therefore hired by the City on  
8 that recommendation.

9 On of the two facilitators chosen was Training for  
10 Transformation, led by Hun Taing and Brandon Lee. And I  
11 believe Mr. Lee is present. There he is.

12 THE COURT: Welcome. Thank you, sir.

13 MS. REEVE: The City would like to acknowledge  
14 Mr. Lee's and Ms. Taing's hard work as well as the hard work --  
15 excuse me. Training for Transformation and some Oregon state  
16 certified minority business enterprises that specialize in  
17 equity focused community building between law enforcement and  
18 the diverse residents they serve.

19 The other facilitator selected was the Brad Taylor Group,  
20 an emerging small business specializing in developing  
21 communication strategies through training seminars, conflict  
22 resolution, and facilitation services. And Mr. Taylor has  
23 extensive experience working with and advocating for some of  
24 Portland's most vulnerable residents, including those who have  
25 lived experience with mental illness.

1           The facilitators really hit the ground running in May of  
2 2018, and their outreach strategy focused on removing barriers  
3 to participation for historically marginalized communities and  
4 empowering Portlanders with lived experience to take the lead  
5 in the process.

6           To date, the facilitators have put in well over 500 hours  
7 of work.

8           The facilitators also recommended the certain limited  
9 changes to the PCCEP plan, and, very briefly, the goal of those  
10 changes was to increase the size of the PCCEP to allow youth  
11 participation, to reduce the number of required monthly  
12 meetings to make the time commitment more manageable, and to  
13 establish some committees with open meetings to do additional  
14 work that the full PCCEP wasn't required for, also to provide  
15 for alternative training protocols for any PCCEP members who  
16 felt an accommodation was needed and to give the PCCEP greater  
17 control over the methods to be used for community engagement in  
18 order to be able to put an emphasis on community gatherings and  
19 nontraditional methods of meeting Portlanders where they are.

20           The conditionally approved amendments to Section IX laid  
21 out the process, the roadmap, for those changes at paragraph  
22 142. That process was followed, and, as I've already  
23 mentioned, enhanced amicus AMAC participated, and we appreciate  
24 that. Intervenor PPA also participated, and both PPA and AMAC  
25 provided suggestions to the City which were incorporated and



1 which approved the amendment.

2 The amendments were subsequently approved by the DOJ and  
3 then by city council. In the meantime, the Selection Advisory  
4 Committee was appointed and those -- each council member  
5 appointed one member. Dr. Cynthia Fowler, a psychiatrist and  
6 Chair of the Health Committee of the NAACP, was appointed by  
7 Commissioner Saltzman. Julie Ramos, a mental health advocate  
8 and the recent Vice Chair of the Citizen Review Committee,  
9 appointed by Commissioner Fritz. Musse Olol, Chairman of the  
10 Somali American Council of Oregon, was appointed by  
11 Commissioner Eudaly. Bobbin Singh, Executive Director of the  
12 Oregon Justice Resource Center, was appointed by Commissioner  
13 Fish. And Derald Walker, a psychologist and Executive Director  
14 of Cascadia Behavioral Health, was appointed by Mayor Wheeler.

15 The Selection Advisory Committee and facilitators were  
16 supported by staff and engaged in a broad outreach strategy to  
17 reach as many Portlanders as possible, including presenting at  
18 community meetings, informational sessions, targeting informal  
19 conversations within their respective network, and six more  
20 formal information sessions held in geographically diverse  
21 locations around the city. The facilitators also did very  
22 targeted outreach to particular individuals and communities.

23 Because of this great work -- and I really do want to give  
24 kudos to the facilitators -- over 100 applications to receive  
25 on the -- to serve on the PCCEP were received from a broad

1 spectrum of Portlanders.

2 The Selection Advisory Committee focused on the following  
3 areas in assessing those applications: Lived experience as a  
4 member of a marginalized community, lived experience with  
5 mental or physical health issues, interpersonal skills,  
6 experience working within and advocating for marginalized  
7 communities, and experience utilizing social services and  
8 engaging in government processes.

9 The Selection Advisory Committee selected the candidates  
10 to interview and then conducted interviews in August, this past  
11 August, which all, as you've heard, were monitored by a  
12 representative of the Department of Justice or the COCL.

13 The Selection Advisory Committee then provided a slate of  
14 candidates -- a suggested slate of candidates to the mayor,  
15 along with alternates. Mayoral interviews occurred also in  
16 August and were also attended by the United States Attorney's  
17 Office. The mayor announced his selection of PCCEP members and  
18 alternates on September 11th, and those appointments were  
19 confirmed by the city council on September 26th.

20 As you've heard, the PCCEP members have already begun  
21 their extensive on-boarding and training process, and the first  
22 public PCCEP meeting will occur next month.

23 The City is now in a position to fully come into  
24 compliance with its obligations under Section IX of the  
25 settlement agreement, and the City has not achieved full

1 substantial compliance yet because that requires PPB to be  
2 engaging with the PCCEP, but we're poised to do that now that  
3 we have a PCCEP and an outstanding PCCEP to work with.

4 And Mr. Vannier, at whatever point the Court wants to hear  
5 argument on the issue of whether final approval shall be  
6 granted, will discuss that. But I would just concur with the  
7 United States that we're -- we're asking these 13 community  
8 members to step up, give a huge time commitment to do difficult  
9 work, controversial work, taxing work, and I would urge the  
10 Court to consider that they're entitled to have a framework  
11 within which they're doing their work, to have -- to be  
12 established unconditionally as the Portland Committee on  
13 Community-Engaged Policing.

14 Should any issues crop up, we've already shown that the  
15 PCCEP plan can be successfully amended with the process  
16 specifically set forth. We don't anticipate that. We are not  
17 aware of any issues. But we have a mechanism to do it that  
18 won't take two years the next time. And these committee  
19 members would be willing to do this work on behalf of the City.  
20 We would urge the Court to give them the ability to do that and  
21 not under a cloud.

22 Finally, I just wanted to mention Section X of the  
23 settlement agreement, which largely concerns accountability and  
24 the COCL's work, but paragraph 160 refers to the COCL's  
25 required town hall meetings to present draft reports to the

1 community. Under this paragraph, the COCL and the City, in  
2 consultation with the PCCEP, shall ensure that the time and  
3 location of these quarterly town hall meetings are well  
4 publicized with sufficient advanced notice to procure  
5 attendance of broadly representing a community body.

6 To date, the City and COCL -- the COCL has been holding  
7 such town halls with support from the City. Now that the PCCEP  
8 is seated, it will have the responsibility of coordinating with  
9 the COCL to host the town hall meetings at which the COCL  
10 presents its report, and the COCL and PCCEP receive comment.

11 Because PCCEP has not yet completed its training process,  
12 that will not occur for the next quarterly town hall meeting  
13 because that is occurring in about two weeks. I want to make  
14 sure that everybody who's here who is interested has that  
15 information. It's also gone out to the distribution list and  
16 has been posted. But that next COCL quarterly town hall will  
17 be held on October 17th. It will be hosted by the COCL and the  
18 City at 6:00 p.m., in room 2500-B of the 1900 building, which  
19 is at 1900 Southwest Fourth Avenue. Future town halls,  
20 following that town hall, will be coordinated with the PCCEP,  
21 and that will allow the City to come into full compliance with  
22 Section X of the settlement agreement as well.

23 In conclusion, Your Honor, the City is extremely gratified  
24 to finally be able to be before you today to report that great  
25 strides have been made toward achieving substantial compliance

1 with the community engagement requirements of the settlement  
2 agreement, and the City is very grateful for all of the support  
3 from the community and the parties and the Albina Ministerial  
4 Alliance and the volunteers to get us to this point.

5 As I said, I don't know if the Court wants to hear  
6 argument now or later on the --

7 THE COURT: Probably later.

8 MS. REEVE: Okay.

9 THE COURT: But let me ask you two follow-up  
10 questions. I appreciate your comments, Ms. Reeve, and I thank  
11 you very much.

12 You mentioned the facilitators, and I do recognize their  
13 hard work in this training toward transformation and the  
14 Brad Taylor Group. Is there a term of the facilitator's  
15 contract with the City?

16 MS. REEVE: My understanding, Your Honor, was the  
17 initial term was for a year with an option for an additional  
18 six months, and of course under City procurement rules, that  
19 can always being extended.

20 THE COURT: And has the year expired, or when does it  
21 expire?

22 MS. REEVE: No. They began working, Your Honor, in  
23 May of 2018.

24 THE COURT: So that will continue through May of  
25 2019?

1 MS. REEVE: Yes. And, as I say, there's already  
2 provisions for another six months, should that be deemed  
3 necessary.

4 THE COURT: The second question I have is I get that  
5 difficult matters take a long time. I get it. I -- I do  
6 not -- I'm not being critical. But my question is given all  
7 that had to be done and that the city council's decision just  
8 occurred a week ago yesterday, September 26th, as you say, was  
9 there a relationship, any connection at all, between the timing  
10 of the City's decision last week and the long-scheduled hearing  
11 in this case for today?

12 MS. REEVE: No, Your Honor. That's just how --

13 THE COURT: Pure coincidence.

14 MS. REEVE: Honestly, Your Honor, that is -- we --  
15 we -- let me say this: We absolutely wanted that process  
16 completed before we came back to Your Honor, but other than  
17 that, no, there was no connection. That was the soonest we  
18 could get it done with the PCCEP plan amendments that came from  
19 the community and the facilitators and the process of needing  
20 to go through those amendments and have a meaningful -- as I  
21 say, the collaboration process with PPA and AMAC took six weeks  
22 itself. DOJ needs time for approval. So, no, Your Honor, it  
23 wasn't scheduled to occur the week before the hearing.  
24 Although, we did want it completed before this hearing.

25 THE COURT: I get it. There's a lot of work to be

1 done. I fully accept what you're saying. I do note  
2 occasionally having an externally imposed deadline is not a bad  
3 idea for a whole bunch of things in life. I get it.

4 Mr. Vannier, I think it will be most helpful, if you were  
5 going to urge me to approve the amendment today, as opposed to  
6 after the PCCEP has had an opportunity to do -- have some  
7 meetings and see how it works, I think that argument will be  
8 most welcome after we've heard all of the reasons why I  
9 shouldn't do that.

10 All right. Thank you very much.

11 MS. REEVE: Thank you, Your Honor.

12 THE COURT: All right. I look forward to hearing  
13 from Albina Ministerial Alliance.

14 MS. CHAMBERS: Good morning, Your Honor. The AMAC  
15 does acknowledge that there have been a lot of progress and  
16 some improvements in the PCCEP plan and greatly appreciates the  
17 City's cooperation and making some of those changes. However,  
18 AMAC still has some concerns similar to what the Court has  
19 about full approval of the PCCEP plan at this time.

20 As AMAC has raised with this Court many times, the process  
21 by which the PCCEP plan was created was a very exclusionary  
22 process involving an appeal to the Ninth Circuit and a  
23 mediation that specifically excluded AMAC.

24 We have noticed time and time again that when the City  
25 talks about collaboration with AMAC, the City defines what

1 "collaboration" means and that sometimes that means that AMAC  
2 is included in the conversation after some sort of preliminary  
3 decision or draft has already been made or is given pretty  
4 last-minute notice to be able to provide some input.

5 Based on that past experience, the AMAC feels strongly  
6 that we need to see how the PCCEP is actually functioning and  
7 that if we were to wait six months and see how the PCCEP is  
8 actually operating, that this Court would be in a much better  
9 position to fully approve the plan.

10 Now, that's not to say that AMAC is rejecting the PCCEP or  
11 not appreciating the work of the community members and the plan  
12 as it's stated, but we have to remember that even the  
13 criticisms today and the critique by AMAC of this plan is based  
14 on what is already understood to be set in stone, and so  
15 they're fine-tune critiques when what we were working on a  
16 couple of years ago was, in AMAC's view, a much more robust and  
17 community-involved oversight of the system.

18 If you wouldn't mind, I would like to ask your permission  
19 that my clients, Dr. Haynes and Dr. Bethel, may also speak?

20 THE COURT: Of course.

21 DR. HAYNES: Thank you to The Honorable and  
22 distinguished Judge Michael H. Simon in the case of United  
23 States of America v. the City of Portland. Case  
24 No. 3:12-02265. The Albina Ministerial Alliance for Justice  
25 and Police Reform was given enhanced amicus curiae by the



1 request of the Court to collectively engage in mediation with  
2 other intervenors and the Department of Justice. We faithfully  
3 engage in mediation that produced the settlement agreement that  
4 was accepted by all parties. After several modifications of  
5 the original settlement agreement, we stand before the Court  
6 with a new modification of the original settlement agreement.

7 On April the 19th, 2018, the fairness hearing was held on  
8 the most recent amendment to the original settlement agreement.  
9 All parties agree to a joint stipulated motion to enter the  
10 amended settlement agreement.

11 On May the 5th, 2018, the Court approved the amendments to  
12 the settlement agreement and conditionally approved the changes  
13 to Section IX and X, relating to the community oversight  
14 engagement. AMAC agrees with the amendment and goals and  
15 concept and plan of PCCEP with some concerns. Many of those  
16 have been adequately responded to by the City while others  
17 necessarily have not.

18 We believe that the thrust of the Portland Community on  
19 Engagement Policing is a critical component to reforming the  
20 Portland Police Bureau and building trust between the  
21 historical and polarized diverse communities and the Portland  
22 Police Bureau. But history has clearly shown that there is no  
23 one approach, a plan, or solution to our problem. We must  
24 always have a multifaceted approach and plan.

25 Most of these concerns have been shared with the City and

1 the city council and some have been adjusted. One, that in the  
2 procedure and process of PCCEP meetings and that the public is  
3 given face-to-face opportunities to voice their opinion and  
4 comments in an open session prior to the decisions that are  
5 made in PCCEP. We are glad to hear that the City responded to  
6 that.

7 Two, that PCCEP establish protocol and internal procedures  
8 to carry out its duty and responsibilities of reviewing the  
9 settlement agreement and its review on evaluation of the  
10 agreement of whether it is progressing or not progressing. I  
11 must say that there was only when AMAC introduced this -- that  
12 it was added to the plan and that the language was changed on  
13 this because -- and that's one of your great visions,  
14 Judge Michael, in making AMAC enhanced amicus curiae, because  
15 that would not have been in the original PCCEP plan.

16 PCCEP -- that PCCEP provide the opportunities to hear  
17 voices of diverse citizens on issue of police reform. We're  
18 not interested in just having sensitivity sessions, but we are  
19 interested in collecting the ideas of the community on the  
20 issues of reform to make the Portland Police Bureau a model for  
21 the nation.

22 Three, that PCCEP provide -- after providing  
23 opportunities, that PCCEP participate, not organize, which is  
24 quality hearing of COCL, and that has been added by the City.  
25 We're concerned deeply about some other issues, in terms of my

1 idea -- my friends and colleagues with DOJ in their particular  
2 statement that PCCEP is functioning well. We're going to have  
3 to disagree. Nothing can be functionally well until the actual  
4 meetings begin to take place and we can do an evaluation of  
5 whether it's functioning well.

6 Also, there's other concerns that we have that concern  
7 deeply about the militarization of the local police force and  
8 the escalation of the handling of a mass protest by the  
9 Portland police. We're concerned also by the gap in the  
10 training and the implementation when it comes to the policy of  
11 the escalation within the Portland Police Bureau.

12 One of the things that we conclude, in agreement with you,  
13 Judge, that there needs to be an evaluation period of how the  
14 PCCEP is working or not working following the beginning of  
15 meetings.

16 In conclusion, the late, beloved dreamer and practical  
17 prophet in America, Dr. Martin Luther King, once said human  
18 progress is neither automatic nor inevitable. Every step  
19 towards the goal of justice requires sacrifice, suffering, and  
20 struggle, the timeless exertion, and passionate concern of  
21 dedicated individuals.

22 And so at this time I'm going to turn it over to my  
23 colleague Dr. T. Allen Bethel.

24 THE COURT: Thank you, Dr. Haynes. I appreciate your  
25 wisdom and comments.

1 Dr. Bethel.

2 DR. BETHEL: Thank you. Good morning, Judge, and  
3 thank you so much for this opportunity to be at this status  
4 conference again. I want to cover just a few points,  
5 particularly regarding the PCCEP and some generals about the  
6 Portland Police Bureau.

7 Unfortunately, I sit here today in the aftermath of  
8 another police-involved, officer-involved shooting. The  
9 killing of a young African-American man. Mr. Patrick Kimmons.

10 While I understand that it does take time to get  
11 information, I do want to encourage that in this process that  
12 we get information as soon as possible to help keep peace  
13 within the city. When rumors begin to swell, it's hard to take  
14 rumors back and quiet things down.

15 I'm reminded of something that I believe worked well and I  
16 would suggest to the bureau to consider doing again. It  
17 happened under Chief Foxworth's reign. We would have what I  
18 would class as a "Here's what we know" meeting. It happened  
19 the day after a shooting or no more than a second day after a  
20 shooting. "Here is what we know" so that the information was  
21 in the community and the community had something to deal with,  
22 whether to deal with speculations and rumors.

23 With that being said, let me talk a little bit more about  
24 PCCEP. And I want to say, before I move from that, I want to  
25 express my appreciation to the Portland Police Bureau for the

1 fine work that their fine officers do. I understand that there  
2 are issues. We do appreciate their work, and I must also say I  
3 appreciate so far what I know that Chief Outlaw is doing and is  
4 proposing to do, as I heard her share with us yesterday in our  
5 partners meeting.

6 When we deal with PCCEP, here are some other concerns:  
7 Continuity. I heard the City say that there's something about  
8 giving it a long life, being able to continue. One of the  
9 issues that we had in the beginning with the COAB that brought  
10 it to its demise is, number one, we didn't have clear  
11 procedures as to how replacements of alternates would be  
12 selected. I think that that needs to be reiterated today, and  
13 it needs to be written and put as a part of what's going to  
14 happen with the PCCEP plan so we are not caught again wondering  
15 how we were going to do this.

16 Secondly, in terms of dealing with the alternates, we want  
17 to make sure that there is a long life of the PCCEP, and the  
18 only way to do that is to make sure that there is facilitation  
19 that is granted and doesn't disappear in a year and hope that  
20 we can extend it six months or go through procurement processes  
21 to extend it another six months.

22 One of the big issues was COAB, number one,  
23 Judge De Muniz had -- I didn't pronounce his name right, and I  
24 apologize for that -- had left. We brought in another person  
25 and ended. Kathleen Saadat and ended. Then we had a whole

1 two-year period of nothing. Facilitation has got to be  
2 understood as a key to PCCEP continuing and not be relegated to  
3 a discussion between members of the PCCEP as to who will be the  
4 chair or vice chair, whatever, to keep these meetings going.  
5 Outside facilitation, non-biased, is going to be the best  
6 thing, and I'm going to urge the City and the Court to urge the  
7 City and the DOJ to make sure that that is a part of the PCCEP  
8 plan and is a continuing plan that is put there.

9 I don't, and I'm not very comfortable with it being lying  
10 in the hands of a political move. In the next few years, we  
11 will be electing or may have the same mayor, police  
12 commissioner or we may not, and that always brings about an  
13 informational change as to whether I like this person or this  
14 group or I want to change it based on where I am. I'm not  
15 speaking of myself. I'm speaking about the political movements  
16 and machines that we have.

17 The process so far, I can say it has been good in terms of  
18 getting it started, but we'll never know how well the door  
19 on -- the close of -- the vehicle will operate until that door  
20 has been opened and closed several hundreds of thousands of  
21 times to see if there will be any defects that needs to be  
22 corrected before it is actually rolled out and given to the  
23 public to be used. I want to encourage and say that while I  
24 believe what we have done is progressing in the right way, it  
25 is too early to give a report card to say, "Pass this with

1 flying colors."

2 I want to urge the Court and the DOJ to understand that  
3 AMA is not rejecting what we have in the PCCEP plan. We feel  
4 that it is too early to say give it final approval.

5 We would urge that at least six months after the first  
6 meeting that it is brought back into a conference to then give  
7 final approval or conditional approval, whatever the Court may  
8 decide at that time, but -- but presently, we do not have  
9 enough information to say that it is functioning well or that  
10 it has gained the confidence back of the community with the  
11 Portland Police Bureau because there has not been any  
12 engagement of the public in a large way that we will be able to  
13 give any type of evaluation on that.

14 With that, Judge, I thank you very much for the  
15 opportunity to present to the Court again today.

16 THE COURT: Thank you, Dr. Bethel. I appreciate  
17 those comments and your wisdom.

18 I have a follow-up question, sir. It's a follow-up  
19 question for the AMA, whether it's Dr. Bethel, Dr. Haynes, or  
20 Ms. Chambers who wants to tackle it. I leave that to you all.

21 I appreciate what you're all saying that we need to see if  
22 it works. We need to give it enough time to see that it works.  
23 Here is my question for you all: What does working look like?  
24 Let's suppose we give it six months after the first meeting.  
25 Maybe even longer? I don't know. But we come back, and then

1 we ask the question, "Has it worked?" What's the criteria that  
2 we should use then? In other words, well, the door opens and  
3 closes and it hasn't fallen off and it keeps out the -- keeps  
4 out the environment like it's supposed to. What does working  
5 look like? Any thoughts on that?

6 DR. HAYNES: Thank you, Your Honor. Working would be  
7 in both quantitative and qualitative terms. Quantitative means  
8 in terms of -- the meetings, the number of engagements in the  
9 community, the process of the feedback. The qualitative terms  
10 has to be measured in terms of expressions of the beginning of  
11 the building of relationships in the community between the  
12 Portland Police Bureau and its citizens. In particular, these  
13 citizens who are here today and the African-Americans who are  
14 definitive, quantitative in number of people who have been  
15 harmed or shot by the Portland Police Bureau.

16 I also think in terms of -- and that's not going to be an  
17 overnight process. I don't -- I don't think, in terms of  
18 having a meeting, that sometimes it will be called a  
19 difficulty. In any kind of public meeting and democracy, we're  
20 going to have sporadic situations that erupt, and so -- but the  
21 thing of the building of those relationships and the  
22 development in the beginning, I think we will see certain steps  
23 there and whether they're doing what they say they will do.

24 Do you want to add something?

25 DR. BETHEL: In addition, Judge Simon, I would say



1 that the communications would be enhanced greatly. So that the  
2 community at large knows when, where, and that places are  
3 chosen where it is accessible to the community as well. I want  
4 to see trust being established or reestablished with the bureau  
5 where we look at accountability and openness to the public.  
6 While we are here, concerned in this case about  
7 officer-involved shootings and excessive use of force and that  
8 which is around the issues of those who are mentally ill or who  
9 are perceived to have mental illness, we also must also include  
10 that part of this PCCEP working and bringing it together would  
11 also be the handling of complaints from citizens against the  
12 bureau, and they would be investigated in a timely fashion and  
13 that they would be open to the public having some transparency  
14 and seeing what is happening in those particular cases or those  
15 complaint situations that would come forward.

16 The other piece about what would it be in terms of its  
17 working is that you would hear on the streets, in community  
18 meetings, people saying there is hope again in the community  
19 working with the Portland Police Bureau and serving the  
20 community and protecting her citizens.

21 Thank you.

22 THE COURT: I find that very helpful.

23 Now, to help me further, let me repeat back a little bit  
24 of what I'm hearing from you to make sure I understood it.  
25 That in order to understand whether the proposed amendment and

1 specifically the PCCEP structure is working, it will take a  
2 look at -- we should take a look at both, as you put it,  
3 quantitative and qualitative factors or considerations. Among  
4 some of the quantitative or measurable factors, it might be the  
5 number of meetings, the frequency of the meetings, whether  
6 there's sufficiently advanced notice of all of the information  
7 that needs to go out and the feedback that comes in, how -- how  
8 often do they satisfy the obligation to give sufficient  
9 advanced notice versus just notice a minute or two or an hour  
10 or a day before.

11 Relatedly, is their timing -- is the handling of  
12 complaints done in a timely fashion? How long does it take to  
13 respond or to have public informational meetings? Those are  
14 all quantitative factors.

15 But you are also telling me another aspect of  
16 consideration of whether it's working is the qualitative  
17 factors, such as is there, by and large, community acceptance?  
18 Is there a community perception that complaints are being well  
19 handled, transparently handled, and timely handled? And as you  
20 just put it so well, is there a general feeling within the  
21 community that there's a renewal of hope?

22 Do I understand what you're saying correctly?

23 DR. HAYNES: Yes, I believe you are -- really have a  
24 comprehensive concept of what we're saying.

25 In addition to that, Judge Simon, the quantitative would

1 also include the evaluation that is actually taking place of  
2 the settlement agreement by PCCEP.

3 THE COURT: Understood. There is that old adage that  
4 if you can't measure it, you can't improve it. But I also  
5 think as much as there's some truth to that, quantitative  
6 measurements are the important thing to do, but it's not the  
7 only thing. I very much respect what you're saying about the  
8 qualitative aspects as well. If I hear what you're saying, you  
9 think that probably six months after the first meeting is  
10 sufficient time. It may or may not be. That remains to be  
11 seen. But you need at least six months after the first  
12 meeting. Is that what I'm hearing?

13 DR. HAYNES: Yes, sir.

14 DR. BETHEL: Yes, sir.

15 THE COURT: All right. Anything further,  
16 Ms. Chambers?

17 MS. CHAMBERS: No, thank you, Your Honor.

18 THE COURT: You know, we're making good progress, and  
19 I'll tell you about the list that I've received. It has eight  
20 names on it. Let's hear from Portland Police Association, and  
21 then we'll take our midmorning break soon enough. And so I  
22 look forward to comments from Mr. Karia.

23 MR. KARIA: Thank you, Your Honor. I'll keep my  
24 comments relatively brief. We heard a lot from the United  
25 States and the City the details of our PCCEP today. I do want

1 to start by thanking Dr. Bethel, in particular, for his  
2 acknowledgment of the police bureau and the officers in the  
3 police bureau. It is important and refreshing to hear,  
4 Dr. Bethel, coming from you, in particular, the support which  
5 is necessary to make sure the settlement agreement becomes  
6 lasting as part of the police bureau, and it's important that  
7 officers hear that their commitment is not going unnoticed.

8 Your Honor, for all the reasons that Mr. Hager has  
9 eloquently stated and Ms. Reeve has stated, the PPA joins the  
10 USA and the City in asking this Court for final approval of the  
11 PCCEP amendments today.

12 If, as it was intended, PCCEP is to be an autonomous  
13 lasting body, it must be built on the foundation of this  
14 Court's support which should come through final approval of the  
15 enabling amendments. I share Ms. Reeve's sentiment and  
16 Mr. Hager's sentiment that it is an important message coming  
17 from Your Honor and this Court.

18 THE COURT: Let me interrupt for a moment and say I  
19 agree with you.

20 MR. KARIA: Thank you. As -- without getting caught  
21 in the weeds and without stealing Mr. Vannier's thunder, if I  
22 can take the liberty to speak very briefly as to what I believe  
23 to be the narrow legal issue before this court, as it will help  
24 flesh some of where we put some of the comments we hear for the  
25 rest of the day in our analysis.

1 I would note that I believe the question before this Court  
2 is whether the settlement agreement amendments in Section IX of  
3 the proposed revised settlement agreement are fair, adequate,  
4 and reasonable. And this Court asked a very good practical  
5 question, which is part of that measurement whether the -- is  
6 that -- part of that measurement was whether PCCEP is working,  
7 and I would offer, Your Honor, that what the parties have asked  
8 this Court to do under, as you acknowledged, sir, the very  
9 unique nature of this settlement agreement, we have asked this  
10 Court to make sure that the enabling amendments for PCCEP to be  
11 built and to flourish are approved and that the question of is  
12 it working is left to the parties, to include the AMAC, to  
13 determine. And once the USA sees substantial compliance that  
14 PCCEP is working, that that will be brought back before this  
15 Court and explained to this Court why it is the USA and COCL  
16 have measured that success in the way that they have, both  
17 qualitatively and quantitatively.

18 Thank you, Your Honor.

19 THE COURT: Thank you. I appreciate those comments.

20 Does the compliance officer/community liaison wish to be  
21 heard?

22 DR. ROSENBAUM: Yes, Your Honor.

23 THE COURT: All right.

24 DR. ROSENBAUM: Thank you, Your Honor.

25 Dennis Rosenbaum on behalf of compliance officer.

1 THE COURT: Welcome, sir.

2 DR. ROSENBAUM: Your Honor, I thank you for this  
3 opportunity to address this matter and report on this. We've  
4 been closely following the development of the Portland  
5 Committee on Community-Engaged Policing, or PCCEP. We believe  
6 this model has some strengths not found in the original  
7 framing, including the separation of the PCCEP from our  
8 investigative work as the compliance officer. There should be  
9 a separate community engagement component that's self-directed.  
10 Your recognition and conditional approval of that distinction  
11 last year has allowed us to take an independent look at this  
12 model of engagement. Excuse me. So we can verify some of the  
13 comments that have been made here today.

14 Despite a very slow start to all of this and a very slow  
15 planning process, we have been impressed with the process used  
16 to recruit and select members of the PCCEP. As you know, two  
17 groups facilitated this process, and in terms of recruitment,  
18 first of all, they engaged in various serious outcome --  
19 outreach efforts, excuse me, that resulted in more than a  
20 hundred people applying to sit on the PCCEP with diverse  
21 backgrounds.

22 The Selection Advisory Committee of five respected  
23 community members was appointed, as you know, by the Mayor and  
24 members of the city council, as well, and we consider this a  
25 democratic process because the council members are elected by

1 the people of Portland.

2 We have closely observed the work of the selection  
3 committee, which met several times to establish criteria for  
4 deciding who should be interviewed, weighing all of those  
5 factors. I won't repeat that here. But it was a very thorough  
6 effort. They interviewed 22 people, and these interviews were  
7 done in a manner that was consistent with everyone.

8 When evaluating the applicants -- and we have observed --  
9 was there -- the selection committee was candid, thorough, fair  
10 and thoughtful in their observations and deliberations as they  
11 recommended potential members and alternates to the PCCEP.

12 Mayor Wheeler, as you know, interviewed these individuals  
13 in a transparent setting with others in the room, including the  
14 Department of Justice and COCL, and then on -- in September,  
15 early, appointed 13 members and two youth.

16 As you've heard this past week, the PCCEP members  
17 participated in a retreat and that we participated in to get to  
18 know one another. We coalesced, gained some clarity about  
19 their mission, and established organizational structure.

20 My understanding from these observations is that the event  
21 was successful and the group is making progress toward  
22 achieving these goals.

23 In the near future, as you know, the City is planning more  
24 formal training. We think the ride-alongs with police officers  
25 are going to be very helpful so they can understand better the

1 police function.

2       So, overall, we're impressed with the process of  
3 recruiting, selecting, and orienting members of the PCCEP. We  
4 feel this process has been what I would call procedurally just,  
5 in that the organizers sought input from a variety of sources,  
6 treated applicants with dignity and respect, used various  
7 methods to ensure that the selection process was fair,  
8 including diverse selection criteria and standardized interview  
9 questions, and showed concern for the welfare of those who were  
10 willing to come forward and participate.

11       So, in summary, we were, you know -- although we were  
12 originally disappointed in the amount of time it took to  
13 reformulate the community engagement component of the  
14 settlement agreement, I have to admit we have been impressed  
15 recently with the results.

16       Undoubtedly, some of the challenges for PCCEP will occur  
17 when the group begins to hold public meetings later this year.  
18 As you know, Portland can be a tough environment for this kind  
19 of work, but the -- with continued training and support from  
20 the City, this group has the capacity, I believe, to serve as a  
21 role model for respectful and healthy community engagement and  
22 police-community relations.

23       The City will need to provide the necessary training and  
24 resources to the PCCEP to develop the community engagement plan  
25 and oversee a citywide survey of community residents that will



1 measure some of the things that folks here today have said are  
2 important, along with other community engagement activities.

3 And the PCCEP will need to hear from all segments of the  
4 Portland community, and we're counting on them doing that.

5 We offer our assistance, as needed. As you know, we have  
6 produced a number of reports, quarterly reports. The most  
7 recent one just came out October 1st. A draft for the public  
8 to review during the next month on training and early  
9 intervention, and we'll make those reports available to PCCEP  
10 as needed.

11 And we agree with the recommendation of AMAC and encourage  
12 PCCEP to participate in and promote the town hall meetings with  
13 the community and seeking the community impact -- impact --  
14 input to our reports and on other matters of community  
15 engagement.

16 The -- as the city attorney has pointed out, the first one  
17 is October 17th at 6:00 p.m.

18 Anyway, overall, Your Honor, I think that I'll close by  
19 just saying that we would be comfortable with your approval of  
20 the amendments to change the community engagement section of  
21 the settlement agreement. Although, we want to stress that  
22 this does not imply that there is substantial compliance with  
23 Section IX. I mean, we --

24 THE COURT: As of right now, there's not.

25 DR. ROSENBAUM: Yeah. And we intend to continue to

1 monitor that, as does DOJ. So we just want to reassure you of  
2 that. Thank you.

3 THE COURT: Thank you, Dr. Rosenbaum. I appreciate  
4 your comments and I also appreciate all the hard work you're  
5 putting in into this project.

6 In a moment or two we'll take a break, but let me talk to  
7 you about where we're going to go after that. After a  
8 15-minute recess, I would like to hear comments from the --  
9 from the friend of the court Mental Health Alliance. And after  
10 that, I have a sign-up sheet with eight names on it, and we'll  
11 go in this order, and I would like folks in this order to keep  
12 their comments to five minutes or less, please. And the order  
13 in which you've signed up is the order in which I would like to  
14 hear from you.

15 The order is Mr. Dan Handelman. Kalei Luyben. Joe Walsh.  
16 Lightning, Philip Wolfe, Debbie Aiona, Kristin Malone, and  
17 Linda.

18 I will remind you of those names when we come back from  
19 our break, but that's the order in which I plan on calling on  
20 you after I hear from Mental Health Alliance.

21 After I hear from those eight individuals -- and, by the  
22 way, I think we'll be able to complete this by -- I'm sorry,  
23 before our lunch break.

24 So, Jill, if you plan on doing what you need to do,  
25 whether it be yourself or with assistance, I think we'll be

1 able to complete this before our lunch break.

2 And then after I hear from the final member of the public  
3 who signed up, Linda, I would like to hear back from the City's  
4 attorney, Mr. Vannier, and you're welcome to argue about  
5 anything you wish to argue about. But let me tell you a couple  
6 of the items that I would like you to address so you can think  
7 about those and prepare. And that is -- number one is what  
8 does it look like to say we have a fully functioning committee?  
9 Along the lines that we've heard earlier, it probably does have  
10 some quantitative and qualitative aspects to it. What's the  
11 City's view of what it would look like and how we know that we  
12 have a well-functioning committee that's working?

13 Second question, how long after the first meeting does the  
14 City realistically think it will take before we might have  
15 enough information to make that judgment?

16 So those are the two issues on my mind. I will, of  
17 course, listen to anything else that you wish to say, and then  
18 final issue, my mind is still open, but you can read what you  
19 want into this, I encourage counsel to look at their calendars  
20 for June.

21 We'll be in recess 15 minutes.

22 (Recess taken.)

23 DEPUTY COURTROOM CLERK: All rise.

24 THE COURT: A couple of preliminary matters. I'll  
25 wait for everybody to be seated.

1 A couple of preliminary matters. First, let me ask.  
2 Someone asked during the break, one of the clerk staff, whether  
3 a transcript will be available to the public and how to get it.  
4 My expectations have been generally that one of the parties or  
5 all of the parties have ordered transcripts.

6 Am I correct in that? And if that's going to be the case  
7 here, does that get posted to someone's website so that members  
8 of the public who can see it, can see it? Because the Court is  
9 generally not in the business of posting transcripts to a court  
10 website.

11 Maybe someday we will be or should be, but we haven't yet.  
12 Does anybody know the answer to that?

13 MS. REEVE: Your Honor, I believe, in the past the  
14 transcripts have been ordered. I'm not aware that they have  
15 been publicly posted. If the Court and the court reporter have  
16 no objection to that, the City would have no objection to that,  
17 assuming that some party orders the transcript again.

18 THE COURT: Jill, am I correct that you wouldn't  
19 mind, is that correct, if someone orders the transcript?  
20 Everybody is looking at you now.

21 Can I ask the plaintiff, the United States, to take care  
22 of that, please?

23 MR. HAGER: Yes, Your Honor. Happy to do it.

24 THE COURT: Thank you. Second preliminary matter:  
25 During the break someone expressed a little confusion to me --

1 one of my staff expressed some confusion to me as to exactly  
2 what did I mean when I told Mr. Karia that I agree with him. I  
3 just want to clarify that. I get how important it is that the  
4 PCCEP be given authority from the Court, that the proposal be  
5 approved, that they understand that this is part of the way the  
6 settlement is being implemented, and that's what I meant when I  
7 say, "I agree with you, sir." I get that that is important.

8 I didn't hear you say -- maybe I missed it -- that that be  
9 done today. If you said it and I missed it, I apologize. That  
10 wasn't necessarily the part that I agreed with, as you can hear  
11 from my questions.

12 I'm skeptical about whether we should give approval today,  
13 as opposed to wait and see once it gets started. They haven't  
14 had their first public meeting. Let's let them have their  
15 first public meeting. Let's see if it does work. And I assure  
16 everyone if it works, I'll approve it; if it doesn't work, you  
17 don't want me to approve it.

18 So I wanted to clarify that that's what I meant when I  
19 said, "I agree with you, sir." I didn't hear the "today" part  
20 of it. But one of my staff did hear you say "today," and said,  
21 "Did you really mean today?" So I'm clarifying that.

22 MR. KARIA: Thank you, sir.

23 THE COURT: Thank you. All right. I look forward to  
24 hearing comments from the amicus and AMA, American Mental  
25 Health Alliance. And Mr. Chavez.

1           MR. CHAVEZ: Good morning, Your Honor. First, I  
2 would like to extend the Mental Health Alliance's gratitude for  
3 being granted amicus status in this case. Their voice is an  
4 important one to be heard, and we'll -- we're grateful to be  
5 here at this table, working on solutions, and fulfilling the  
6 intent and goals of all the parties to this settlement  
7 agreement to provide a safer, healthier Portland, especially  
8 for those suffering from mental illness, as they navigate our  
9 city.

10          Much of the changes to the policies and practices of the  
11 Portland Police Bureau are necessary. A change of culture is  
12 also needed to ensure the ends that we seek.

13          Allowing this alliance to speak is the first step to  
14 changing the culture around the needs of Portlanders with  
15 mental illness. As has been noted, all three organizations  
16 have participated at some juncture in the implementation of the  
17 settlement agreement, and we look forward to, as amicus,  
18 working to relay to the Court the kind of useful knowledge that  
19 we have gained through that process.

20          Without delaying our opinion on the amendments at hand  
21 today, for that matter, we join AMAC in saying that it is too  
22 early for this Court to accept the PCCEP amendments in total  
23 finality.

24          To express in more detail our concerns with that, I would  
25 like to invite one of our clients, Mr. Jason Renaud, who is

1 part of the Mental Health Commission of Portland.

2 MR. RENAUD: Thank you, Judge Simon, for approving  
3 our proposal, our request, and I just thank you for having this  
4 status hearing. It's been almost -- it's been two years have  
5 elapsed since Mayor Wheeler resigned the members of the COAB  
6 that we discussed, public oversight to the settlement  
7 agreement. But to close observers, the COAB ceased to be  
8 effective almost a year before that in the late spring of 2016.  
9 That is caused by a lack of training that has been observed,  
10 inexperienced facilitation for that particular sort of meeting.  
11 Sort of tedious disconnect between the Mayor's office, now,  
12 that's the former mayor, and the community concerned with  
13 police use of force. Add to that some frustrated testifiers,  
14 political incidences, slow walk by the DOJ to respond to COAB  
15 decisions, and the city council not replacing COAB members, and  
16 it really seems to have been an intentional mess.

17 There's been not one, but three hearings, here with -- in  
18 this courtroom with no public oversight, and the Court -- I  
19 think you knew that they were off the rails long before  
20 Mayor Wheeler stepped in. That's at least 600 days of  
21 noncompliance, as everyone has agreed upon, observed by this  
22 court.

23 So the work now with the COAB is probably lost. Unless  
24 the PCCEP members demand the review of the work and use it, the  
25 time spent by COAB members will be wasted, and we're -- worse,

1 the work of the COCL, from 2014 until now, must also be  
2 reviewed by the PCCEP members and understood and incorporated  
3 into their future work.

4 The PCCEP members are really stepping in the middle of a  
5 river. I've met with the members of the COAB, and I've just  
6 recently had a chance to meet with most of the members -- at  
7 least get introduced to most members of the PCCEP. And there's  
8 a significant difference between the two committees. The first  
9 came through -- basically through recruitment. And the second  
10 came basically through application. And the skill sets, the  
11 experience, the notability, the community recognizability  
12 and -- are quite different.

13 One committee had no training and professional meeting  
14 facilitation. This committee will have professional training  
15 and no meeting facilitation. There's no governance set for  
16 this committee. There's no chairperson. There's no complaints  
17 or appeals process. There's no, sort of, structure about how  
18 the committee will function, and that was largely where it  
19 derailed the COAB.

20 By comparison, the scope of the PCCEP's work has been  
21 limited, yet widened to include issues beyond harmed people  
22 with mental illness by police, this -- the scope of this  
23 settlement. So perhaps their work has gotten harder.

24 I'm interested in the PCCEP because three brave  
25 applicants, selected by Mayor Wheeler, identified themselves to



1 him as people with mental illness and/or addiction, just like  
2 those described in the DOJ findings.

3 Those three persons have an extraordinary interest in the  
4 success of this agreement. They represent the interests of  
5 tens of thousands of Portlanders just like them, and I ask to  
6 speak regularly to this Court to the credibility and value of  
7 those voices that are going to provide some oversight to this  
8 agreement.

9 If those three persons -- two of whom are in this room --  
10 don't believe they are safe in calling at least for help, then  
11 this agreement has not been successful, if you want a  
12 qualitative measure of our feeling safe with police officers.

13 Second, I'm also concerned about unity. Unity is a basic  
14 part of this agreement, sort of a facility that started after  
15 the agreement was written, and it's been a lot of trouble, and  
16 it's necessary that we have these enhanced mental health  
17 services, but -- well, here is what I don't know: I -- I don't  
18 know why Legacy hasn't responded to the March 2018 OSHA report  
19 that there were hundreds of assaults by patients against staff  
20 members. So I don't know how that happened. I don't know what  
21 it represents. I don't know how or if it was remedied. I just  
22 don't know.

23 The Oregon Health Authority, as you've read in the news,  
24 closed Unity in July in response -- well, partially closed it  
25 in response to media reports about deaths at Unity. I don't

1 know why the authorities didn't do something earlier because  
2 they knew these deaths had occurred weeks and months before.  
3 They knew that these assaults were occurring. They knew that  
4 there were other clinical and design deficits at Unity that  
5 were unaddressed.

6 Now, Unity is still in jeopardy of being closed by the  
7 feds, and there is no plan B. I don't know why the Oregon  
8 Health Authority and Multnomah County not working on an  
9 alternative to Unity. They're not. The catch phrase is "It's  
10 too big to fail." At this point, that's poor management.

11 Courts and physicians should not have to send fragile  
12 people needing help for psychiatric illness to rooms where  
13 hundreds of assaults have occurred.

14 Multnomah County has suspended senior staff in the mental  
15 health division, launched an internal investigation to  
16 determine why the division stopped investigating complaints. I  
17 don't know why and the State doesn't know why and the County  
18 doesn't know why the County stopped investigating patient abuse  
19 complaints. Allegations of abuse.

20 The County has also started an audit of the mental health  
21 division. That should be interesting.

22 I also don't understand why Unity has been connected in  
23 this case so closely to the ideal of a drop-in -- drop-off or  
24 walk-in center. It doesn't conform to the common standard  
25 definitions of those. We'll be going away from the -- coming

1 back with some writing to define those better for you based on  
2 other comparable miles. Thank you.

3 THE COURT: Thank you very much. I appreciate the  
4 contributions from the Mental Health Association Alliance.

5 MR. RENAUD: I would like to introduce my colleague  
6 Bob Joondeph also.

7 THE COURT: Welcome, Mr. Joondeph.

8 MR. JOONDEPH: Thank you, Judge Simon. Thank you  
9 very much for allowing us to have this status before you.  
10 Disability Rights of Oregon has become involved in this way in  
11 the case even though we have been very involved with the case  
12 in other ways over the years. In fact, we have been involved  
13 with police issues in Portland for over 30 years in various  
14 ways. And during that time, all of those years, I really  
15 believe that everyone has worked, as you have said, in good  
16 faith and have worked hard in order to address these issues,  
17 and I think the complexity and difficulty of these issues are  
18 reflected in the fact that they're still here working on it.

19 The -- when the settlement agreement was arrived at, we  
20 were thrilled. We think that the settlement agreement is an  
21 excellent agreement. And what it focuses on, as you know, of  
22 course, is the treatment of people who have mental illness and  
23 perceived mental illness in our community. There are aspects  
24 of the settlement agreement that talk about police practices,  
25 but also there's a very important part, as Mr. Renaud was

1 addressing, that talk about the need for adequate mental health  
2 services in Portland.

3 We understand that there's different enforcement abilities  
4 for those two portions of the settlement agreement; however, I  
5 think it was -- it's said in that agreement and it's been  
6 acknowledged repeatedly that the success of one is dependent on  
7 the success of the other. And this is really why the Mental  
8 Health Coalition has coming together -- or the alliance, I  
9 should say, has come together because we are concerned that the  
10 attention to the mental health services and how police  
11 interacted with that particular community could possibly be  
12 diminished as the -- as the case goes forward.

13 It's been noted that the question before you is whether  
14 amendments to this settlement agreement are fair, adequate, and  
15 reasonable, and we think it's premature to make that judgment  
16 at this point, and I'll explain why.

17 In fact, it might have been represented by some comments  
18 by the parties today. I believe Mr. Hager said that the --  
19 the -- as we look at the settlement agreement today, we have  
20 the agreement and the amendments, but then we have an attached  
21 document that's from the parties about how this new PCCEP will  
22 operate.

23 When I look at the amendments themselves, I was unable to  
24 find the phrase "mental illness" in those amendments, and there  
25 doesn't appear to be any direct reference to those amendments,

1 in terms of the tasks that the PCCEP was supposed to take on.

2 When you take a look at attachment, it does talk about  
3 that, and it does have some of the qualities that have been  
4 mention today, and we appreciate those.

5 However, as Ms. Reeve pointed out, the way it's been  
6 presented to you allows the parties to amend without delay, to  
7 change the terms of the agreement without delay, so that it can  
8 be nimble, and that is a desirable quality.

9 However, our concern is that that can mean because PCCEP  
10 is, as people have expressed it, a type of democratic process,  
11 which has been articulated as being positive, and we agree with  
12 that. However, we view this as a civil rights action that is  
13 specifically designed to enforce the civil rights of people  
14 with mental illness.

15 Part of the problem, I believe, over 30 years we have  
16 worked on this, is that sometimes the democratic process  
17 doesn't put the energy into the needs of traditionally  
18 disadvantaged populations in our community because it  
19 represents a broader voice.

20 So that brings us to conclude that there still needs to be  
21 clear judicial oversight over the settlement agreement, which  
22 is designed to address the civil rights of people with mental  
23 illness.

24 THE COURT: It was originally brought as a civil  
25 rights complaint, settled as a civil rights complaint for the

1 settlement that required continuing court availability.

2 MR. JOONDEPH: And so, just to conclude, I would say  
3 that your questions about how will we tell if it's working, the  
4 one thing that wasn't mentioned, that might be included in one  
5 way, is how is it working for people with mental illness?

6 THE COURT: Good point.

7 MR. JOONDEPH: Thank you, Your Honor.

8 THE COURT: Thank you, Mr. Joondeph, I appreciate  
9 that.

10 All right. What we're going to do next is hear from the  
11 nine folks. There was a last-minute addition to the list. The  
12 order, again, would be Mr. Dan Handelman, Kalei Luyben,  
13 Joe Walsh, Lightning, Philip Wolfe, Debbie Aiona,  
14 Kristin Malone, Linda, and Ann Casper.

15 Again I would ask that the comments be made from the  
16 podium to the Court. Please address your comments to me, and  
17 also please keep your comments to five minutes.

18 Mr. Handelman, where you, sir?

19 MS. REEVE: Your Honor, if I may, Mr. Lee --  
20 Brandon Lee, one of the facilitators, would like to speak, but  
21 didn't sign up on the sheet.

22 THE COURT: I'll add Mr. Lee to the end of the list.

23 Good morning, Mr. Handelman.

24 MR. HANDELMAN: I would like to note that in the past  
25 we've had multiple members of our group testify for you, and

1 there are three of us here today. I'm hoping that you might  
2 indulge me for ten minutes, rather than five, so that I can get  
3 the comments in that we have prepared collectively.

4 THE COURT: Let's see how it goes, but don't speak --  
5 but don't read quickly.

6 MR. HANDELMAN: The more you limit me, the faster I  
7 talk.

8 Okay. Judge Simon, Portland Copwatch sent in written  
9 comments and presented at the Fairness Hearing in April about  
10 the status of the settlement agreement. We recognize that  
11 today's focus is on the community engagement part. We are  
12 updating some of the comments.

13 THE COURT: Hold on for a second. You're going to  
14 wear out our court reporter.

15 MR. HANDELMAN: Okay.

16 THE COURT: You can read slowly. I won't limit you  
17 to a strict five minutes. I will make it reasonable, but  
18 please read slowly.

19 MR. HANDELMAN: We are focusing these comments on the  
20 community engagement part, and this is based on our  
21 observations of public documents and meetings. These comments  
22 are not being made on behalf of the AMA Coalition. We also  
23 take note and it was mentioned briefly before that this Sunday  
24 the Portland police killed the third young African-American man  
25 in two years. Most of the people who have been killed by the

1 Portland police, since the DOJ came to town, have been in  
2 mental health crisis.

3 Also, the PPB used a chokehold at the end of August, which  
4 we believed had been banned in 1985 after an African-American  
5 man was killed by the same move. So we mentioned previously  
6 that many of the changes made to the PCCEP were made behind  
7 closed doors. The AMA Coalition was not always invited to be  
8 part of those discussions. And I should add that part of the  
9 delay in getting those discussions moving was that the City had  
10 filed -- I don't have to remind you of this, Your Honor -- had  
11 filed an objection to the Court asking them to come to an extra  
12 status agreement, which made your own role in this left in  
13 question.

14 THE COURT: Everyone is always welcome to appeal.  
15 That's part of our process.

16 MR. HANDELMAN: I know they're welcome to, but that's  
17 partly what caused the delay, and I don't want that to go  
18 unmentioned today.

19 So our concern about lack of community engagement, when  
20 we're trying to find how police are going to engage with the  
21 community, is of key importance.

22 When city council inducted the members of the PCCEP last  
23 week, the Mayor did not allow public testimony at council.  
24 It's ironic when we were talking about how to improve community  
25 engagement.



1           We support the mental health alliances we found. And  
2 amicus status will help open up the discussion to more members  
3 of the public. We were kind of alarmed at seeing the Portland  
4 Police Association and the DOJ's opposition, in light of the  
5 fact that Your Honor invited people to apply for amicus status  
6 at the hearing in April.

7           On to the community engagement concerns. It would be  
8 appropriate for the Court -- inappropriate for the Court to  
9 accept that the City has met its obligations to create a new  
10 COAB replacement. Since the body was deactivated 611 days ago,  
11 there's been no meeting of a new civilian board in those  
12 611 days.

13           The PCCEP is now in the middle of its orientation and not  
14 expected to have its first meeting until November, as you know.  
15 That will be 21 months since COAB was dismantled.

16           Various oversight bodies that are supposed to improve  
17 police behavior and accountability listed in the agreement have  
18 either fallen apart, which is a community police relations  
19 committee and the COAB. They failed to hold public meetings,  
20 which is the BHU Advisory Council and the Police Review Board  
21 or to continue to struggle with the lack of powers for  
22 transformative policy recommendations. The Citizen Review  
23 Committee and the Training Advisory Council.

24  
25           The shootings and the violence, particularly at protest

1 actions, are continuing, despite the existence of all these  
2 committees.

3 Specific to the PCCEP structure, we believe the COAB was  
4 mostly sound and much of its failure was due to the influence  
5 of the COCL. And it was mentioned already that one of the most  
6 important changes made was removing COCL from the board and  
7 allowing them to choose their own chair.

8 On that note, we really think that leadership of PCCEP is  
9 very crucial. It doesn't mean that the staff person have to  
10 tell them what to do, but they have to remind them of their  
11 commitments and obligations they made at previous meetings,  
12 hold them to continuing their work on an ongoing basis, and  
13 continue pressing forward with the old recommendations made by  
14 the COAB and any recommendations the new body makes so that  
15 they don't get forgotten from meeting to meeting.

16 To meet the Court's approval, we'd like to see the PCCEP  
17 actively functioning for at least six months, and we want to  
18 make sure that they can. And it's here, our -- our criteria  
19 that we laid out. Independently assessing the implementation  
20 of the agreement that's acquired of COAB, stated by council in  
21 its task list for PCCEP, give feedback on COCL reports at  
22 quarterly town halls, hold open meetings, and work -- also, we  
23 join the AMAC in being concerned that they're allowed to shut  
24 people out based on safety concerns that are not adequately  
25 defined.

1 But we do like the fact that the PCCEP now is required to  
2 take public comment before voting. The AMAC mentioned  
3 electronic means. We're very concerned that there was talk  
4 about having the public put in a separate room and then the  
5 only way they can communicate is by video. We don't think  
6 that's adequate.

7 We want to make sure that new body maintained at the first  
8 membership, the six alternate members were not mentioned  
9 publicly; although, a member of the MHA was able to get a list  
10 that they shared with us.

11 There's no criteria to decide who gets seated in what  
12 order; although, we heard some from the City Attorney this  
13 morning or how to refill the alternate posts. This was another  
14 problem that led to the downfall of the COAB.

15 They need to engage the entire city council, not just the  
16 Mayor, on the progress and changes in the PPB. They have to  
17 help develop metrics to measure possible bias in police stops.  
18 And that's actually outlined in that section of the agreement  
19 as well.

20 There -- they need to meet with community groups and other  
21 advisory boards that are mentioned in the founding document.  
22 We would also like to see the PCCEP make a report to the Court  
23 before a decision made -- is made about the adequacy of the  
24 structure. And I think Your Honor is hinting at that today,  
25 but I think hearing from the members themselves would be

1 useful.

2 Although, it's not tied to the new board, the --  
3 envisioned by the agreement of the bureau to present annual  
4 reports, we only know that this happened in 2016 after -- after  
5 the fact. It was -- they had poorly promoted public  
6 presentations, and there was no report that we can find on the  
7 website created in 2017 or 2018.

8 We have repeatedly suggested the public presentations  
9 should involve civil rights organizations, provide  
10 counterpoints to claims about force, bias-free policing, and  
11 people's rights and responsibilities, which are all outlined in  
12 the agreement but are not happening.

13 In the absence of an oversight board, the City has been  
14 holding monthly committee forums since February. Only a few  
15 were geared to listen to community concerns. Others seem to be  
16 designed to let panelists run out the clock, talking about  
17 everything but use of force. And at the last several, it was a  
18 member of the community who used the term "use of force."

19 With regard to timeliness, paragraph 146 required the new  
20 board to be selected, trained, and seated to provide the  
21 content of a new community service within -- survey, sorry --  
22 within four months of the agreement being amended, which would  
23 have been in August. So the City already missed one important  
24 deadline.

25 Furthermore, we remind the Court that despite the rosy

1 picture in the COCL's reports, which are created out of whole  
2 cloth, a new category of substantial compliance, conditional,  
3 the City must attain full compliance and sustain it for a full  
4 year to satisfy the terms of agreement.

5 We continue to have many other concerns about the language  
6 in the agreement and the COCL's analysis. We recognize the  
7 other concerns are not front and center today. We hope there  
8 will be another -- annual status conference no later than  
9 April of 2019 -- though, it sounds like it will be in June --  
10 to raise those issues and revisit the PCCEP and look at their  
11 progress.

12 THE COURT: I just have a monstrous trial calendar in  
13 April and May.

14 MR. HANDELMAN: Okay. I appreciate your giving us a  
15 time frame, anyway.

16 Thank you very much, Your Honor. I think that concludes  
17 it.

18 THE COURT: Thank you very much, Mr. Handelman. As  
19 always, I do appreciate your comments.

20 Kalei Luyben.

21 Welcome.

22 MS. LUYBEN: Good morning, Your Honor. I concur with  
23 the amicus on the subject of the mental health crisis that's  
24 going on in the city right now. I won't belabor it. And I  
25 also concur with what Dan Handelman has said, and I won't

1 belabor that.

2 What I'm bringing up at this point is the fact that the  
3 COAB was not the only noncompliance issue. The other  
4 noncompliance issue was what happened with the investigation of  
5 the former chief of police, whose name I won't mention, but you  
6 have it in writing in front of you.

7 So on July 26th of 2018 my husband and I went down to the  
8 district of -- I think it's called the Oregon Board on Public  
9 Safety Standards and Training, and what happened I heard at  
10 that meeting is that the City of Portland had sent such highly  
11 redacted records and made such obscure points that the -- the  
12 committee that was preliminarily charged with reviewing the  
13 case thought that there should be no disciplinary action  
14 against the former chief. And their idea was that the press  
15 had vastly overstated the culpability and liability of the  
16 former chief. And so the original idea was no discipline  
17 whatsoever, and that became a problem of conscience for the  
18 chairman of the board of the DPSST, and so he asked and/or  
19 directed that the policy committee reconsider.

20 And it felt, to me, like unless we citizens share the  
21 burden of responsibility and speak up from our own points of  
22 view, then we become culpable with the failure our own  
23 democracy, and I didn't want that to happen.

24 I also would like to mention a name, and it's the name of  
25 Chris Davis. He was one of the people that recommended that

1 disciplinary action be taken. And so you can see from the  
2 writing that I've submitted to you that we ended up prevailing  
3 but by a very narrow margin of one. So the certification of  
4 the former chief was revoked.

5 But I guess what I really want to say is that part of my  
6 duty and my responsibility is to carry the heavy load that the  
7 police carry, and this was a heavy load, not just for the  
8 police, but certainly for the police, and it certainly would  
9 have been, from my point of view, tragic for our new chief of  
10 police to have available for double dipping an undisciplined  
11 former chief of police hovering somewhat like a ghost over the  
12 city of Portland.

13 I just wanted to call this to your attention because there  
14 are really serious legal issues that we citizens have to deal  
15 with, and though the Mayor of Portland would like to have a  
16 cheery PCCEP with wonderful activities for our community  
17 engagement and I totally support cheerfulness on the part of  
18 all of us, there still needs to be someone -- I won't name any  
19 names, but I will -- I will address myself to you. There  
20 still --

21 THE COURT: Someone who's grumpy.

22 MS. LUYBEN: I join you in that one.

23 But I still require that you maintain control over this  
24 case. Thank you, Your Honor.

25 Thank you, Ms. Luyben.

1 Mr. Walsh, welcome.

2 Mr. Walsh, do you want a chair?

3 MR. WALSH: What, sir?

4 THE COURT: Would you like a chair?

5 MR. WALSH: No, Your Honor. I'm going to be short.

6 As we get old, we shrink, so I'm getting shorter.

7 THE COURT: Well, if you change your mind and want a  
8 chair, Mary will bring you a chair.

9 MR. WALSH: The first COAB meeting there were about  
10 200 people at that meeting and most of them were citizens.  
11 They were not activists. And they lined up and they expressed  
12 the problems that they were having with the police department.  
13 And all of the activists that I knew who were really excited  
14 because we like citizens that come and tell their stories, so  
15 we get tired of fighting, and sometimes we need to rest. And  
16 we want the citizens to say, "I ran into this police officer,  
17 and he was rude," or "I ran into this police officer and he was  
18 delightful." We need to hear that.

19 The next meeting of the COAB, there were about a hundred  
20 people that showed up. And we were worried. What happened?  
21 It should be going the other way. Because you asked the  
22 question, Your Honor, how do we know it's succeeding? And when  
23 we know it was succeeding is when we have more people come to  
24 the meetings, that we do outreach, that we don't hide in the  
25 darkness, but we only had a hundred.



1           At the third meeting, there were less than 50, and the  
2 fourth meeting it was the activists. And we were outraged.  
3 And we kept saying, "What are you doing?"

4           And then we found out that the people that were giving  
5 their time on the COAB could not even get a stipend. It was  
6 totally volunteer. But the head of COAB was making a hundred  
7 thousand dollars a year. Then we got really outraged, and we  
8 said, "What are you doing? How can you justify that?" You're  
9 going to do it again because the people that are on this  
10 committee are not getting stipends.

11           Now, look, folks, you can figure out a way of giving them  
12 a stipend. Cover their costs. Whatever. They put in more  
13 than 30 hours a week; for God sakes, give them a stipend. You  
14 created a committee to fail. That's what COAB was. It was  
15 created, Your Honor, to fail. They did everything to fail.  
16 COAB did their jobs. They submitted a hundred recommendations.  
17 A hundred. Where are they? Nobody knows. Where are they,  
18 Your Honor? They've acted on one. Rosenbaum acted on one.

19           The way it was set up, my understanding of this, and I  
20 could be wrong, was that COAB was submitted to the COCL and the  
21 COCL was submitted to the Justice Department and they would act  
22 on it. What happened? They spent two years working. I'm  
23 sorry.

24           THE COURT: It's okay. Be just a little -- a little  
25 quieter.

1 MR. WALSH: I'm really working on lowering my voice.

2 THE COURT: You've done a good job.

3 MR. WALSH: They spent two years, two years working  
4 on those recommendations.

5 THE COURT: Mr. Walsh?

6 MR. WALSH: What did you do with them?

7 THE COURT: Mr. Walsh, to me. To me.

8 MR. WALSH: Yeah. The activists that I know want so  
9 much to bridge a gap between the police and us. We've reached  
10 out. You haven't. You haven't.

11 THE COURT: You need --

12 MR. WALSH: I get thrown out of every other meeting  
13 at city council because -- the last time I got thrown out, it  
14 was because the Mayor selected these people without input from  
15 the citizens, and the way he did it was he said it was a report  
16 and reports do not have to have citizens' input at the council  
17 meetings. It's an option by the presiding official, and he  
18 won't do it.

19 So he -- he appointed all these people without any  
20 significant input. Nobody contacted me. I don't know about  
21 you guys and how much you had to say about these appointments.  
22 I think the Mayor did it on his own. I may be wrong, but  
23 nobody is saying, "No, Joe, you're wrong." He appointed these,  
24 and as long as that happens, Your Honor, you have to keep  
25 jurisdiction. You have to say, "I'm not approving this today.

1 I've got to watch a little bit longer. I'm going to see what  
2 it looks like to succeed."

3 And you said something the last time I was here that  
4 really struck me. You said maybe what you people need to do is  
5 to hold meetings to figure out how to hold meetings. Has that  
6 happened, City? No. No. How many years ago was that? I  
7 don't know. Two?

8 Has the City, in good faith, reached out to the activists  
9 and said, "Let's hold a meeting to figure out how we can get  
10 along"? Just that one concept. Have you done that? No. But  
11 everything is okay. Eight years ago you shot Keaton Otis --

12 THE COURT: No, we're not going to go into that.  
13 We're not going to go into that.

14 MR. WALSH: Pardon?

15 THE COURT: It's been about seven minutes, sir, if  
16 you would please wrap it up.

17 MR. WALSH: Okay. I'm going to wrap it up right now.

18 Eight years ago you shot Keaton Otis 30 times; hit him 20.  
19 Someday it will happen again.

20 So when you ask the question, Your Honor, how are we  
21 doing, my answer is how many shots were fired Sunday night and  
22 why? And then decide how we're doing.

23 Thank you for your patience.

24 THE COURT: Thank you, Mr. Walsh. Thank you for your  
25 comments.

1 Lightning.

2 Good morning, sir.

3 LIGHTNING: Good morning, Your Honor. My name is  
4 Lightning. On Section IX in the contract settlement agreement  
5 itself, I think, pertaining to PCCEP, we need to give it about  
6 a 12-month time frame and come back and really analyze on how  
7 it's working. One of the points on PCCEP and really what we  
8 want to do is -- the outcome we want to see is that I want to  
9 give -- just from my position, I think the Portland police are  
10 making strides in a positive manner on dealing with the people  
11 that have a mental illness or the perception of that.

12 I think they're beginning to have a more deescalation-type  
13 process on letting people kind of voice their concerns and --  
14 and don't react too fast. Kind of have a -- an understanding  
15 that people out in the community might not express themselves  
16 in what some people consider to be normal in the community,  
17 might have anger issues that seem to be inappropriate to some  
18 people in the community; but, I think, the police are beginning  
19 to process that with their training and understand that  
20 sometimes a more relaxed "at ease" approach is beneficial for  
21 all parties involved. I think in the community we're seeing  
22 that, so I will say that about the police at this time.

23 Now, knowing that there's many more improvements to be  
24 made, I think Unity Center was a positive direction to go. I  
25 think what we are experienced in seeing at the overall

1 situation at the Unity Center is that we have a much more  
2 complicated situation out on the streets and through the  
3 communities than we thought we had. And that's going to take a  
4 tremendous amount of training within the Unity Center to  
5 understand how to deal with people now maybe coming from the  
6 street into Unity Center very angry, very upset, and how to  
7 deal with them now in a reasonable manner and understand their  
8 needs to, when they go back out in the community, has it been  
9 beneficial to go to that Unity Center?

10 As you know, on the LEAD program, which  
11 Attorney Underhill -- or District Attorney Underhill has been  
12 working on, and it's been pushed through, has been very  
13 beneficial.

14 I still want to see, when we're talking the affordable  
15 housing issue and implementing more services in those units  
16 that we build, as you know, for the mentally ill, for the  
17 people with addictions, for people with the need of supportive  
18 services added to their current living situation, to prevent  
19 that, which, again, isn't necessarily always the police's  
20 fault, but to prevent that interaction out on the streets with  
21 the homeless person, it's obviously better to have them in  
22 housing with supportive services. And we have already  
23 calculated that we save money by doing that. We save money in  
24 the long-term; that they don't have that interaction with the  
25 police, go to jail, come back out on the street, and it becomes

1 a revolving-door cycle that we see, and we see that in data now  
2 just recently. 50 percent of the homeless are in the arrest.

3 And we have to analyze that and try to solve that problem  
4 by getting more housing, which we're doing. We did the  
5 affordable housing bond, the City. We're working on the Metro.  
6 We're working on the supportive housing to implement into those  
7 units throughout the communities.

8 And, again, from my position, I really think we have a  
9 really good police chief. I really do. And I think that she  
10 views a lot of this in a very open-minded but almost a caring  
11 approach, and I -- I like to see that. You can see by the way  
12 that she responds to certain things that it's -- it's a caring  
13 approach also in trying to have an understanding that to really  
14 call it community policing, anyone out on the street, under a  
15 bridge, on the sidewalk, that is our community. That -- these  
16 are the people we need to begin to possibly lift up at a  
17 certain degree, at least, and to be conscious of, you know  
18 we're dealing with people out here. People that need  
19 assistance, that need supportive services, that need housing,  
20 and we have to take that all in consideration on how we might  
21 interact with them.

22 We can't come in aggressive to somebody that's been  
23 traumatized for many years. You just can't do that because  
24 their first response is to, you know, push back aggressively,  
25 and that's what they've done their whole lives.

1           We're trying to lift them up, trying to have the community  
2 show a little bit of acceptance and have the proper services to  
3 keep them stabilized out in the community; stabilized, to where  
4 they can function in a reasonable manner and live a reasonable  
5 life in our city, which we should all be working to help them.

6           So, again, just on PCCEP, I think it will be very  
7 positive. I like to the direction it's going. The only  
8 concern I've had on this -- I always like a separation from the  
9 police commissioner making decisions over PCCEP or who gets  
10 appointed, who -- who ends up being on the committees. I like  
11 that independent separation, especially when we're talking the  
12 settlement agreement itself on Section IX.

13           Thank you for your time.

14           THE COURT: Thank you very much. I appreciate those  
15 comments very much, Lightning. Thank you.

16           Philip Wolfe.

17           MR. WOLFE: Good morning. Good morning, Your Honor.  
18 It's really nice to see you again. I'm glad to be here this  
19 morning. Before I proceed, I would like to request an  
20 additional minute to allow for the interpreting process. Would  
21 that be okay with you?

22           THE COURT: Don't worry.

23           MR. WOLFE: Thank you. So before I start, I would  
24 really like to address Tracy's comments about the PCCEP and its  
25 functioning. It hasn't even been established yet. I think she

1 needs to take back -- they need to take back that comment. To  
2 say that everything is running well, I don't even think it's  
3 functioning yet, and I just want to emphasize that that comment  
4 should be redacted.

5       There was also a comment that the COAB was set up, and  
6 they had the chair running it, and they stepped down, and then  
7 Kathleen took over the process as chair, and then they -- that  
8 person stepped down, and since then there's been no one  
9 involved. But I take that a little bit personally and feel  
10 offended by that because there were people that stepped up and  
11 took -- took that on, even though they weren't paid.

12       And the running chair, there were a lot of people arrested  
13 in the community, and then they were also thrown out of  
14 meetings, and that's been an ongoing process.

15       But with my time as chair, running that, it didn't happen.  
16 And so I think that says a lot in comparison to how it  
17 functioned previously.

18       And COAB was really the truly only independent oversight  
19 body. And now with PCCEP, we'll see.

20       With the first rounds, I was interviewed during the first  
21 round of the selection process, and I feel like -- and then I  
22 was rejected, and I felt like that was a slap to the face  
23 because I have been committed in working for the past several  
24 years for public safety. I love Portland. Portland is my  
25 home, and I'm very concerned about the safety of its citizens.



1           And then later, out of the blue, Ted called me in and said  
2 I want to have a conversation with you, and I was kind of  
3 questioning the selection process and how it was being run at  
4 that point. I didn't -- it wasn't clear what exactly the  
5 dialogue would be.

6           But, again, I had a conversation, and it seemed to be an  
7 interview. And then I was denied again, and that was a punch  
8 to the stomach. And I've had a lot of feedback into that  
9 process. But my point is, my concerns about PCCEP is I want  
10 you to hold off. I don't want you to approve anything yet.  
11 I'll admit, I'm excited, but I have some nervousness around it.  
12 You know, by Ted, the Mayor himself, the police commissioners,  
13 and now the running of PCCEP.

14           So I feel nervous and I feel excitement; but for the  
15 citizens and the public, this person is not a well-liked person  
16 who is running it, and I'm wondering how that is going to  
17 impact the process. So I have some concerns.

18           And then on the 4th, I was involved with the protests, and  
19 the police did attack the community for no reason. And there  
20 was a police shooting, and I understand there was about a 45 --  
21 a line of about 45, and then there was something that was  
22 lethal -- sorry. Just one moment. The explosive device, the  
23 flash-bang device that was used for crowd control, the angle of  
24 how that was shot was considered lethal and there was lots of  
25 documentation, photos and videos that were taken, and while the

1 chief of police -- first, I want to recognize that the chief of  
2 police and the chief deputy, thank you for coming in without a  
3 gun. It's makes me feel like we're on the same playing field.  
4 We're equals. So I want to recognize that I appreciate that.

5 But having a conversation with an ultraconservative  
6 person, their comment was blaming the community for starting  
7 the uprising.

8 And since that, it's been about two months from what  
9 happened, there's been no proof or anything. There's no  
10 investigation that's been completed. And for the chief of  
11 police to blame that on the citizens for the uprising -- I  
12 understand from what's been going on, there's really no trust.  
13 No police accountability. And three people have been killed  
14 three year by police. Two of them black men, black people, and  
15 then the other one was in mental crisis.

16 And excessive force has been used. It's been escalated.  
17 And so my question is with all of this going on, all of these  
18 issues still coming up without the investigations, without the  
19 accountability -- and I -- I -- I think it's pre-PCCEP.  
20 There's been six different meetings, and the numbers have  
21 dwindled in those last six meetings. And last time there were  
22 only ten members from the community that showed up, myself  
23 being one of them.

24 So I think you need to take a serious look at the process,  
25 at what is going on before you make your final determination.

1 I think there's still no trust from the community in the PCCEP  
2 that's been established.

3 I have pictures here that show the protests from the 4th  
4 and the police lined up and looking at the community, not  
5 looking at the opposing -- the Proud Boys, the opposing  
6 protesters, and the angles of the gun are show -- of the  
7 explosive device are shown here in this photo as well.

8 And then reporter Doug Brown was filming, and the police  
9 were attacking the reporter, and that's just not acceptable.

10 And this shows -- this was pictures from the ER. There  
11 was injury to the back of the person's head, and they had  
12 said -- the ER said, "If it wasn't for wearing a helmet, you  
13 would be dead." And that's a big concern.

14 And this is a picture of chemical burns. Chemical burns?  
15 This is warfare. This is not just controlling your population.  
16 And looking at this happening, I -- I envision this happening  
17 again at future protests. Will things like this continue to  
18 happen? When is this going to change? When is it going to  
19 improve?

20 And how can PCCEP improve the situation if there's no  
21 trust in that body, and that's one -- I did a protest  
22 through -- or a complaint through an independent police review.  
23 And, really, I would love to have an opportunity with you,  
24 Chief Outlaw, to bring things into alignment and work with the  
25 DPST -- DPSST and police training. I'm a community member. I

1 live in downtown. I see the police every day. I study them.  
2 I've taken film. I've taken photos. And I have a unique  
3 perspective just from my experience living here in Portland. I  
4 would love to have a dialogue with you around what I -- what  
5 I've seen, and I'm hoping that one day we can truly sit down  
6 and have a heart to heart.

7 I'm not here to attack you. I'm not here to cause unrest.  
8 I just want to -- you, Your Honor, to take this all into  
9 consideration before you make this final approval.

10 Would you like me to provide you with these photos?

11 THE COURT: No. I saw them when you held them up.  
12 And I don't want to turn this into an evidentiary hearing that  
13 decides specific issues like that. But I do very much  
14 appreciate all of your comments, Mr. Wolfe, and, as always, I  
15 appreciate you being here.

16 MR. WOLFE: Thank you, Your Honor.

17 THE COURT: Debbie Aiona.

18 And, Ms. Aiona, I received and read the letter from you  
19 and the League of Women Voters, so I thank you for that.

20 MS. AIONA: Thank you. Thank you, Your Honor. I'm  
21 Debbie Aiona, spelled A-I-O-N-A, representing the League of  
22 Women Voters of Portland.

23 THE COURT: Sorry. I mispronounced your name.

24 MS. AIONA: That's okay. Took me a while to learn it  
25 too.

1           The League has mixed feelings about whether the Court  
2 should lift conditional approval for Section IX of the  
3 settlement agreement. It is our sense that the Court expected  
4 that the PCCEP would be up and running by now, but the  
5 committee has yet to hold its first public meeting.

6           The City has, however, made significant improvements to  
7 the plan with community input and has devoted considerable  
8 effort to the recruitment and selection of committee members.

9           It appears the City is on the right track. But until we  
10 have seen the committee in action, final approval is not  
11 merited.

12           The League is several items to highlight regarding the  
13 PCCEP plan. The updated plan places as greater emphasis on  
14 open public meetings. As an organization that values informed  
15 and active participation in government, the League believes  
16 this practice is an essential requirement for any public body.

17           We understand that committees quite often prefer to  
18 conduct team building and bonding sessions in private, but  
19 trainings on the history and content of the settlement  
20 agreement and the responsibilities of public officials should  
21 be open to the public.

22           These provide valuable learning opportunities for  
23 community members and benefit the City in the long run by  
24 improving the quality of informed public participation.

25           The plan does not describe designated committee member

1 alternates. It was good to hear that the City has identified  
2 six people to be alternates; however, that process -- that part  
3 of the process should be included in the plan, and we also urge  
4 the City to keep those 13 seats full at all times, you know,  
5 give or take.

6 We commend the City for including interactions with the  
7 community and settings other than traditional committee meeting  
8 but encourage the PCCEP to hold regular meetings where policy  
9 matters are discussed and deliberated and the public is invited  
10 to provide comment.

11 Staff support should enable the committee to more  
12 effectively carry out its duties. It is our expectation that  
13 this support will include staff drafting of reports at the  
14 committee's direction and with their final approval.

15 The League is particularly supportive of the following  
16 provisions. Subcommittee meetings will be open to the public,  
17 public comment will be taken before committee votes. PCCEP  
18 will meet with the Police Commissioner, Chief, and other key  
19 officials at least twice a year. Recommendations will receive  
20 a City response within 60 days. The Mayor's office will  
21 produce annual reports on the committee's work. The committee,  
22 with mayoral approval, will have the authority to review and  
23 comment on police bureau directives outside the usual two-year  
24 cycle.

25 We also have comments on a couple of other items.

1           The monthly public safety meetings organized by the  
2 Mayor's office have been extremely valuable both in terms of  
3 information and dialogue. The League encourages their  
4 continuation, perhaps on a less frequent basis, once the PCCEP  
5 is meeting regularly.

6           Finally, at the April 19th Fairness Hearing, the question  
7 of internet access to all the information related to the  
8 settlement agreement was raised. The Court indicated an  
9 expectation that the City or COCL would maintain a website  
10 where the public could find all the relevant information. Our  
11 volunteers who worked on this memo can tell you from firsthand  
12 experience that we needed to visit several online locations to  
13 find the relevant documents.

14           In our view, the Portland COCL website would be the ideal  
15 location for all of the materials, and we encourage more active  
16 and comprehensive management of that site.

17           Thank you for considering the community's perspective as  
18 you deliberate on the next steps in this process.

19           THE COURT: Thank you very much, Ms. Aiona.

20           I thought when we talked about this last time that all the  
21 materials were available on the City's website, or where did  
22 you tell me they were available? Do you recall?

23           MS. REEVE: I believe the compliance materials,  
24 Your Honor, are available on the COCL website, and the intent  
25 is, as the PCCEP is up and running, to have all the PCCEP

1 materials available there but to link to the COCL website.

2 THE COURT: Thank you.

3 Kristin Malone, please. Welcome.

4 MS. MALONE: Good morning, Your Honor.

5 THE COURT: Good morning.

6 MS. MALONE: My name is Kristin Malone. I'm the  
7 Chair of the Citizen Review Committee. We appear actually in  
8 Section VIII of the settlement agreement, so I'm sorry if I'm a  
9 bit off topic. I've come here today because the settlement  
10 agreement is being positioned as a barrier to improvements to  
11 the police oversight system in ways that the CRC at least  
12 doesn't believe are founded, and because this is an opportunity  
13 to stand in front of most of the relevant people who could sort  
14 that out.

15 Specifically, the CRC has recommended not for the first  
16 time a change to its standard of review on which it hears  
17 appeals of officer misconduct. The CRC currently is required  
18 to defer quite significantly to the responsible unit manager of  
19 the accused officer in reviewing findings.

20 So while we are an advisory body, most often the chief is  
21 not getting our advice. This refers not just to questions of  
22 what happened or did not happen, but what the policies mean and  
23 how they are interpreted. This has extended, for example, to  
24 questions to whether accidental cycles of a Taser were in  
25 compliance with a policy that said each cycle of a Taser must



1 be separately justified. That case was actually appealed all  
2 the way to city council. And city council, using our same  
3 standard of review, decided that they needed to defer to the  
4 interpretation offered by the Bureau of Management.

5 So in our capacity in our ability to advise, we have  
6 requested that our standard view of review would be changed.  
7 Our standard of review is mentioned in the settlement agreement  
8 as a definition. That's definition 61. And then again in  
9 paragraph 135 CRC appeals, which says simply the City and PPB  
10 agree that the CRC may find the outcome of an administrative  
11 investigation is unreasonable if the CRC finds the findings are  
12 not supported by the evidence.

13 We believe that the agreement should function and should  
14 be recognized as a floor, not a ceiling, to the citizen  
15 oversight. And in our conversations with city councilors, we  
16 have received support for the principle behind our change, but  
17 the response has been a fear that the settlement agreement  
18 doesn't allow it.

19 So I -- I guess I would just appreciate the guidance of  
20 the Court, if possible, or any people in this room who would  
21 like to work it out.

22 THE COURT: Let me ask you a question or two in  
23 follow-up.

24 Have you put that -- or has the CRC put that request and  
25 proposal in writing with the City?

1 MS. MALONE: Yes.

2 THE COURT: And dated when?

3 MS. MALONE: Dated several months ago.

4 THE COURT: Okay. Have you received a written  
5 response from the City or the United States?

6 MS. MALONE: No.

7 THE COURT: In a few moments, or later today in this  
8 hearing, I'm going to ask them, "Did you receive it? Do you  
9 plan on responding? What's the right process?"

10 But I also encourage you at our next hearing to come  
11 forward and let me know what's happened between today and the  
12 next hearing on this question.

13 Let me just invite either the City or the United States  
14 now, if you wish, anybody have any comments or questions on  
15 this particular issue? I don't want to spend too much time on  
16 it.

17 Mr. Geissler?

18 MR. GEISSLER: Your Honor, the United States has not  
19 received a written request. Rather, I believe, the request  
20 went to the City. The City should opine upon that request,  
21 should consider whether or not it complies with the city code,  
22 and whether or not the City wants to ask for an amendment to  
23 the settlement agreement and present that to the United States.

24 THE COURT: Thank you, Mr. Geissler.

25 Anything from the City at this time?

1 MS. REEVE: Your Honor, I'm aware that the request  
2 has been made. I'm not in receipt of the written version of  
3 the request, and the -- the -- in addition to the settlement  
4 agreement issue, there are bargaining issues, and I would let  
5 Mr. Karia address that if he wishes to. But it would be a  
6 change that would likely have to be bargained with the Portland  
7 Police Association.

8 THE COURT: Any comments you wish to make, Mr. Karia?

9 MR. KARIA: Yes, Your Honor. Just to reiterate what  
10 Ms. Reeve said, yes, there are bargaining obligations from our  
11 standpoint, and we did provide Ms. Malone, along with  
12 Chief Outlaw and -- excuse me -- the IPR Director Severe a  
13 letter responsive to the discussion laid out our -- the  
14 association's thoughts on the general subject.

15 So there has been some dialogue and some healthy dialogue  
16 to include representatives of the association meeting with  
17 representatives of the CRC.

18 THE COURT: Ms. Malone, did you receive a letter from  
19 Portland Police Association?

20 MS. MALONE: Yes. And the CRC views there being two  
21 barriers here. One is the settlement agreement and one is the  
22 bargaining issue. So either one of them.

23 THE COURT: It's pretty significant hurdles to  
24 overcome.

25 On the settlement issue -- here is what I would suggest to

1 you, and you are welcome to let me know at our next hearing how  
2 things are developed. Provide copies in writing of whatever  
3 you want, feel free, to the attorneys of record in this case.

4 My courtroom deputy can make sure you have the email  
5 addresses. It's also, I think, on the docket -- electronic  
6 docket sheet for this case. But provide that to them,  
7 including the friends of the court -- besides the intervenor,  
8 Portland Police Association; friend of the court AMA; and our  
9 new friend of the court, the Mental Health Alliance.

10 And to the extent that an amendment to the settlement  
11 agreement is needed and appropriate, they are the parties that  
12 know how to present that amendment to me. So that would be  
13 step one.

14 To the extent that this is an issue that requires  
15 bargaining with the Portland Police Association and the City,  
16 as I think we discussed about four or five years ago, there's  
17 not a whole lot I can do about that, except under certain  
18 circumstances under this settlement agreement, and we're not  
19 there yet.

20 Does that make sense?

21 MS. MALONE: Yes. I guess I was just trying to get  
22 clarity on whether it's even worth bargaining if it would or  
23 would not violate the settlement agreement.

24 THE COURT: That is a question to which I cannot  
25 answer.

1 MS. MALONE: I would say I have some paper copies of  
2 our proposal here today. I will be in the back.

3 THE COURT: You're welcome to deliver paper copies to  
4 counsel of record, including for the amicus.

5 Thank you, Ms. Malone.

6 MS. MALONE: Thank you.

7 THE COURT: Linda.

8 Linda, I did not get your last name. If you want to give  
9 it to us, you're welcome. If you would rather not, you don't  
10 have to.

11 MS. SENN: We've moved into afternoon, Your Honor.

12 THE COURT: Okay. Not yet. I can still say good --

13 MS. SENN: Still good morning.

14 For the record, my name is Senn.

15 THE COURT: How do you spell that?

16 MS. SENN: S-e-n-n.

17 THE COURT: Thank you.

18 MS. SENN: Thank you, Judge Simon, for this time  
19 before you, and I would also like to say thank you to the  
20 Honorable Reverends Bethel and Hayes.

21 Sorry. I'm a little bit nervous. And I would also like  
22 to say thank you that the Mental Health Association was here  
23 and said our names.

24 I do want to also extend that I have seen PPB attempting  
25 to adjust the way they interact with our community. As far as

1 for the PCCEP, I will woefully ask that Your Honor wait. I  
2 continue to watch the process. And before approving or denying  
3 this committee, that you would be able to use an equitable lens  
4 to see that folks that have perceived or known mental health  
5 illnesses are being lifted up in this community in what way  
6 that is equitable for them.

7 Because our community has felt the lack of compliance by  
8 PPB's use of force and continued abuse on our community, Unity  
9 being one of the ways that folks with mental health illnesses  
10 known or perceived have been extended abuse through PPB that  
11 way by placing folks that are houseless, that -- the difference  
12 between exhaustion, addiction, and mental health seems to be a  
13 struggle for PPB to really understand what that looks like and  
14 how our community also receives extended use of force from PPB  
15 is something called "BIDs." Business Improvement Districts.  
16 It should just say it all. It should be said business  
17 inclusion districts.

18 And, furthermore, abuse towards our citizens by the -- I  
19 don't know how to say it nicely, the use of Wapato as a  
20 comprehensive shelter space for people that are experiencing  
21 houselessness or small crimes that would -- would have, like,  
22 crimes like erecting shelters or illegal campsites that could  
23 send people to jail or, as Daryl Turner said, an option to go  
24 to Wapato. Your Honor, I believe the place is still a jail,  
25 regardless.

1 THE COURT: An unused building that was built as a  
2 jail that I know a number of people are struggling with to try  
3 to figure out what type of effective and beneficial use to make  
4 of it.

5 MS. SENN: I hear you, Your Honor.

6 Furthermore, I was in the streets on Sunday morning when  
7 Patrick Kimmons -- I guess it's an investigation, was  
8 occurring, where family members were mourning the loss of their  
9 loved ones in the streets and witnessed PPB being extremely  
10 inappropriate with their behaviors towards the family and the  
11 community at that time.

12 Also, PPB, in the evening, put the community and the  
13 family at risk in the night asking us to please move our  
14 barriers and remove the vigil from the streets when family  
15 members were still standing there openly mourning in the  
16 community.

17 PPB, then, after community members and family members were  
18 engaged with vehicles in the night, where we're not visible so  
19 much, after a few folks came into close encounters with  
20 vehicles, PPB then said, "Well, we'll allow you to put back up  
21 the tape for a little while."

22 I think that when there's mourning in the streets, that  
23 PPB should also tilt their hats.

24 There's a lot of things that have brought me to this day.  
25 One of them, I think, if you can recall, a few years ago, when

1 I spoke before you about my son and the encounters that he had.  
2 Since then, I have moved with our community through different  
3 avenues to support by being present at meetings for COCL and  
4 COAB and also being present in the community, engaged in  
5 different activities where use of force and police brutality on  
6 community members is just unacceptable.

7 I also have recently spent the last year as the vice  
8 president of the board of directors of Sisters of the Road, and  
9 the work we do there is based upon community engagement and  
10 community input and community needs and community ideals.

11 If that doesn't give Your Honor a hint that we are a  
12 community organizing organization, I think that PPB has reached  
13 out to us, and I appreciate that. But I would also appreciate  
14 that PPB would please end this -- please start listening to  
15 what our community is saying.

16 Our nation is -- is this seeping wound, so to speak, right  
17 now, and our communities really need those that are in lead to  
18 support us, and we're just not seeing that.

19 That's all I have to say, Your Honor.

20 THE COURT: Thank you very much, Ms. Senn. I  
21 appreciate your comments and appreciate you being here again.

22 Final two presenters will be -- and then we'll go back to  
23 counsel -- Ann Casper, followed by Brandon Lee.

24 Ms. Casper.

25 MS. CASPER: I guess it's still good morning,



1 Judge Simon. We have one more minute.

2 THE COURT: Good morning.

3 MS. CASPER: I would like to -- and I didn't get back  
4 to you because I didn't know how to. Last time I was here, I  
5 told you I would tell you about peer support. I didn't know  
6 how to reach you. So how do I get that information to you?

7 THE COURT: Well, the best thing to do is probably to  
8 send a PDF my email to my courtroom deputy, Ms. Austed.

9 MS. CASPER: I don't have a way to make a PDF. Can I  
10 make it a regular Word document?

11 THE COURT: Yes. Just send it to her attention.  
12 She'll have it PDF's and scanned, and we'll distribute copies  
13 to all of the parties in this case.

14 MS. CASPER: Oh, thank you.

15 THE COURT: Anything that comes to me, I really do  
16 think it's appropriate to share with all the parties in the  
17 case.

18 MS. CASPER: What's her email address? Do you know?

19 THE COURT: Mary will write it down and hand it to  
20 you.

21 MS. CASPER: I just didn't have it last time. I feel  
22 like I had homework and I didn't do it.

23 THE COURT: That's all right. No problem. She'll  
24 write it down and give it to you.

25 MS. CASPER: In the light of peer support, I was

1 asking somebody else, I only saw two support people here. One  
2 person said she couldn't do it because she's part of the  
3 committee. So I asked Jason Renaud to come stand up with me of  
4 peer support, and this is part of peer support. So he is being  
5 here holding space for me mutually. He may not agree with what  
6 I say. So what I say may not be what he thinks. Just to let  
7 you know that.

8 But he is holding safe that on my path -- I'm walking my  
9 path, and he's going to hold the path with me. Okay?

10 So this is part of peer support.

11 First, I would like to thank you for -- I guess you had  
12 asked Jared -- what's Jared's last name?

13 THE COURT: Mr. Hager?

14 MS. CASPER: Yes, Mr. Hager. About how many arrests  
15 had been done at Unity? Because I had been searching this  
16 for six months and --

17 THE COURT: And he did supply that information in  
18 writing --

19 MS. CASPER: Great.

20 THE COURT: -- in the written status report to the  
21 Court, and that is available on our website. If you have  
22 difficulty obtaining that afterwards, just contact my courtroom  
23 deputy, and she will print you off a copy of the United States'  
24 status report.

25 MS. CASPER: So what we found out -- what I found out

1 is that 30 people at that address have been arrested and taken  
2 to jail from the mental health facility.

3 Ten people were confirmed patients. So we have patients  
4 literally taken from the mental health facility to jail. Two  
5 of those I saw personally. That's why I brought this up last  
6 time.

7 And two people --

8 THE COURT: Ms. Casper, I'd just ask if you could  
9 direct your comments to me.

10 MS. CASPER: Oh, absolutely. I saw other people  
11 doing that too.

12 THE COURT: I know.

13 MS. CASPER: It's all good.

14 THE COURT: And I try and encourage people to make  
15 their comments to me.

16 MS. CASPER: Oh, you know, I get so nervous anyway.  
17 Thank you.

18 THE COURT: I appreciate that. Have Mr. Renaud stand  
19 there. Please be --

20 MS. CASPER: Please, more support. No, no, don't  
21 touch. No. Stand there.

22 Thanks, Jason. All right. Handshake. Okay.

23 So from that, we found out 30 people had been arrested.  
24 That was a shock to me. I didn't think so many had been. I  
25 helped build the center, and I had been in these centers

1 before. And ten people, literally patients, two people I saw  
2 were actually not patients, and so I know two of them had been  
3 in the hospital or tried to get in. I happened to talk to  
4 Sheriff Reese and the jail system, and I said, "Do you have a  
5 way to know" -- make sure that the medical records at Unity,  
6 people in Unity, are transferred to the jail? So they're given  
7 the same medications. Because when you're given different  
8 medications, you're off kilter and it's even worse. There is  
9 no procedure.

10 In fact, Sheriff Reese didn't even know people had been  
11 taken from Unity to jail. I also asked the top psychiatrist in  
12 the jail system, "Do you have a procedure to make sure that  
13 these records are transferred directly?" No procedure.

14 So I would like to -- I don't know if it's PCCEP, who to  
15 ask, to make sure that medical records are directed -- and the  
16 booking procedure, the psychiatrist said it's up to the booking  
17 nurse to determine if they've been. So what's missing here?  
18 Some kind of communication. Let's make sure that communication  
19 happens. Okay? I don't know who has to do it, how it happens.  
20 Yeah. Let's just somehow -- if PCCEP, or whoever, let's make  
21 sure if you're taken as a patient in a mental hospital to jail  
22 that all the records are transferred before you get there so  
23 they have your medical things ready for you.

24 THE COURT: Thank you.

25 MS. CASPER: Thank you.

1 I would also like to suggest that -- that we get support  
2 and money for trauma groups. So those -- those of us who have  
3 been in and out of the mental health systems, which -- and  
4 special -- it's different to be put in as a patient, as  
5 Jason Renaud said, there have been assaults. Well, he said the  
6 patients had assaulted people. But if we look at it the other  
7 way around, why are they assaulting people?

8 I have one friend who was actually pepper-sprayed as  
9 patient in Unity. She was trying to shield her eyes and get  
10 away. They actually took her to Multnomah County Court and  
11 charged her with assault.

12 So something -- something here -- something is difficult  
13 here. So we -- and even I consider myself a Unity survivor. I  
14 was there. It's so silly. I helped build it, and I end up  
15 there. But it was the worst treatment in 36 years I've had.

16 So I actually had a hard time even driving by it for  
17 six months because I would get so angry just looking at the  
18 building. So I would suggest that the City and the County and  
19 somebody get some money for trauma groups. For those of us who  
20 have been through these systems, let us work out our trauma  
21 together.

22 Peers are trained in peer support. We can run our groups.  
23 One really good group I've seen run groups over the past  
24 30 years is called DBSA, Depression and Bipolar Support  
25 Alliance. Of all the mental health support groups that have

1 been in Portland, they run the best groups. And they know how  
2 to handle people who are not doing well and so -- in the group.  
3 And keep things going.

4 So I would suggest through them -- they also work with  
5 NAMI and other places. Let's work together. Even people who  
6 have been with trauma from police, let's work that trauma out.  
7 We as peers can work it out together. We just need some money.  
8 We don't have money for food or for places. You know, we just  
9 need -- even for facilitation, we can facilitate it ourselves.  
10 We just need that.

11 And let us work out our trauma, so we can work well with  
12 everybody.

13 Another thing with the PCCEP, I didn't apply because I  
14 looked at the materials and mental health was always number two  
15 and number three on the list of things that was being described  
16 as. I'm like, well, I'm really for mental health. Why isn't  
17 mental health number one?

18 THE COURT: What was number one?

19 MS. CASPER: I can't remember. What was number one?  
20 Can somebody tell me? It was -- was it -- I don't know how to  
21 say it. Was it race relations? I just don't -- I just  
22 remember mental health being number three, and I thought, well,  
23 I don't really fit in there. So I'll let other people do that  
24 work.

25 And I'm glad we're talking about civil rights, and it's

1 interesting to look at to -- qualitative or quantitative, what  
2 Bob Joondeph was saying. How does it work for mental health --  
3 people in the mental health realm?

4 So the COAB, as I said before, only four out of the 44  
5 recommendations had to do with mental health. So as a person  
6 in the mental health communities -- there's many communities --  
7 not just one -- I would say that's not a very good score  
8 that -- if I look at a committee that is supposed to be talking  
9 about mental health and only four of the recommendations touch  
10 upon mental health out of 44, that's not a good ratio.

11 I was very disappointed with that.

12 THE COURT: On the other hand --

13 MS. CASPER: Yeah, go ahead.

14 THE COURT: There's 27 amendments to the U.S.  
15 Constitution and only one of them touches on freedom of speech.

16 MS. CASPER: Okay.

17 THE COURT: That's really, really important. I would  
18 urge you don't just count up the numbers.

19 MS. CASPER: Okay.

20 THE COURT: That's just my perception.

21 MS. CASPER: Yes, that's good. Oh, yes. Okay.  
22 You're right. Qualitative is also very important.

23 I would also like -- so I've been on this committee. It's  
24 called the Mental Health Subcommittee. It's actually a  
25 committee run by -- it's a long acronym, so be careful here.

1 LPSCC, which is the Local Public Safety Coordinating Council,  
2 which is actually chaired half by Mayor Wheeler and half by the  
3 Chair of Multnomah County.

4 And I would like Mayor Wheeler, as the chair, through this  
5 to ask that this mental health community start meeting monthly.  
6 It used to be monthly for about 10 to 12 years, and then it  
7 switched to every four months.

8 So what helps, if it meets monthly, these are -- it helps  
9 us as peers, as people in the community, know what they're  
10 planning, what is going on, and then we get monthly reports. I  
11 just think it would be helpful to get that back to the monthly  
12 session. Otherwise we don't know what's going on. Through  
13 that committee, we can.

14 And I would also like to say I would like to see the CRC  
15 reach out to the mental health community. As a person, I never  
16 thought about it until I started coming to these meetings. I  
17 never heard about the CRC. So I wouldn't even think about --  
18 I've been in touch -- well, I've been taken by police twice,  
19 and I guess if I had problems, I wouldn't even think about CRC  
20 because that's not in my realm. So how can they reach out to  
21 our mental health community?

22 I also wanted to speak about this morning, Linda was the  
23 only one who talked about us with the words that I personally  
24 agree with, who's talked about people with mental health  
25 issues.



1 THE COURT: Well, but Mental Health Alliance spoke  
2 about --

3 MS. CASPER: What I heard them say is "fragile  
4 people" and "disadvantage people suffering from mental health  
5 illness." That's not the language I would personally use for  
6 myself. What I use is "people" first. "Persons who have been  
7 diagnosed with mental health issues," people with -- always  
8 "people" first.

9 And, also, if you're going to use "fragile" or  
10 "vulnerable," add "resilient." I heard this from somebody  
11 else. So vulnerable and resilient people. Fragile and  
12 resilient. Because we're still alive. We still made it  
13 through.

14 I did want to end with a short story. Yesterday I was  
15 coming home, going to my car in the park in southeast Portland.  
16 There was a man on the ground. His friends were around him.  
17 Apparently, he had taken an overdose. I got down and  
18 listened -- listened for his -- for his breathing a little bit,  
19 and then checked for a pulse. He had no pulse.

20 So these people did not want to call the authorities, and  
21 they were trying to figure out on their own how they were  
22 bringing him back to life. There was no way that was going to  
23 happen.

24 So it was really interesting that people who -- he was  
25 dead. He really was dead.

1           And I was -- finally, a woman -- I didn't have my phone  
2 with me. Finally got a woman to call. She called. The  
3 ambulance showed up later. First, the fire showed up, police  
4 showed up, and I would like to say thank you to Officer Fox. I  
5 don't know if he's a lieutenant or what. I don't know those  
6 titles. I didn't ask him. He did very well. I was very happy  
7 to see Officer Fox do that.

8           There was another policeman with him, a shorter man. I  
9 don't know his name. He did not do so well. Interesting in  
10 the same occasion because the -- the man's friends were very  
11 scared and -- scared to even call authorities even to get him  
12 back to -- to life.

13           So the -- the other man, the other officer didn't do well  
14 because he tried to help encourage a friend to move away from  
15 the dead man. He literally was dead. And the man didn't want  
16 to move away because he was scared of the authorities. And  
17 that man said, "Does that man have a mental illness?" And he  
18 didn't. He was traumatized. He was traumatized that his  
19 friend was dead. He was traumatized that the system was there.  
20 And it's kind of interesting, but I would like to say  
21 Officer Fox did a fantastic job.

22           I did want to say that he came -- through Narcan, he came  
23 alive again, and I'm so grateful for that.

24           THE COURT: Very good.

25           MS. CASPER: So I do want to say to PCCEP, I'm

1 looking forward to see what happens. Unity -- I like --  
2 Judy Shiprack was a commissioner here. She had an idea about  
3 having different what's called crisis assessment treatment  
4 centers. Little centers around Portland in the areas where  
5 people live.

6 So example, when we would take people to the hospital, we  
7 didn't take them to Adventist because it was too far out there.  
8 We didn't want to visit them. So we would -- so think about  
9 instead of one big hospital, having community hospital places  
10 where families are closer, friends are closer, and it matches.  
11 Because in Portland we have different communities in different  
12 areas, and the mental health treatment matches that community  
13 of that area. I think that would be a lot healthier.

14 But Unity is still there, and we'll just work with it.  
15 And I want to thank you very much.

16 THE COURT: Thank you very much, Ms. Casper.

17 Thank you, Mr. Renaud, for your support.

18 Mr. Lee.

19 Welcome.

20 MS. LEE: Good morning, Judge Simon. I wanted to be  
21 here today, number one, to introduce myself officially. I also  
22 want to give thanks to all the stakeholders who took the time  
23 to be here. I'm really excited to see the investment of all of  
24 those that planned to be here.

25 In light of the time, we do have a committee member from

1 the PCCEP, and, in light of the time, I wanted to know if I  
2 could share my time with Ms. Clay to give her personal  
3 experience thus far.

4 THE COURT: Of course. Of course.

5 Just state your name, please.

6 MS. CLAY: My name is Yolanda Clay. PCCEP member. I  
7 just wanted to express -- I -- as a member of PCCEP, I  
8 understood the responsibility of becoming a PCCEP member all  
9 the way through the application, and then being selected as a  
10 member. And then going through the retreat and the on-boarding  
11 process, I developed an even greater understanding of that  
12 responsibility both at a micro and macro level. And I've had  
13 the opportunity to meet most of the PCCEP members, and I find  
14 that each and every one of them bring a skill set and life  
15 experience that will only enhance our ability to work on this  
16 important issue with an openness and like mind that will  
17 hopefully bring effective and positive results.

18 Thank you, Your Honor.

19 THE COURT: Don't go away yet. Number one, I want to  
20 thank you in advance for your volunteering and for your service  
21 on PCCEP; and, two, I want to add to one of your  
22 responsibilities on PCCEP. At some appropriate time, I am  
23 going to ask you and your colleagues on PCCEP whether in your  
24 opinion it is now time to give approval to the amendment that  
25 establishes and creates the framework for PCCEP. I'm going to

1 want to know what your opinions are.

2 Sorry to add to your responsibilities, but I'll say in  
3 advance that I thank you in anticipation for your insight and  
4 your contribution.

5 MS. CLAY: Thank you.

6 THE COURT: Anything further, Mr. Lee?

7 MS. LEE: Yes. I'll make it brief. So I won't touch  
8 on every point, but I wanted to be able to offer some context  
9 to a couple of points that were made.

10 Coming in, we had an initial meeting within our first  
11 month with AMAC and other stakeholders together. And so one  
12 point that comes up -- one that comes up often is in regards to  
13 electronic -- having community separate from the PCCEP  
14 community process in a room, and watching it electronically.

15 Some context: We were within -- our first month, we were  
16 in the middle of recruitment, and so I want to make it clear  
17 publicly, and I think I've taken time to reach out to AMAC  
18 privately just to ensure that we -- we at the PCCEP  
19 facilitators more importantly wanted to create some time and  
20 space for the PCCEP committee to form to establish and make  
21 sure they had an opportunity to -- to incorporate processes  
22 that they thought were best.

23 So we, as facilitators, were not held to electronic or  
24 specific particular processes that have come up, and I just  
25 wanted to make that clear. That particular amendment, just so

1 you know, came from a study out of Google that said, "How do  
2 you put together the best performing team?" And one of  
3 those -- the most important was to preserve psychological  
4 safety. And so there was a reason why they came out but were  
5 not held to that.

6 We were required to and agree with quarterly town hall  
7 meetings. And so the concept of our -- of our proposed  
8 community engagement forum was to try to bring some innovation  
9 to the typical town hall process that COAB had utilized and  
10 other processes had utilized.

11 I'll give you an example from my outreach, particular  
12 outreach, I was able to glean insights from vulnerable  
13 community members where they were in the community -- not going  
14 through community leaders, et cetera -- and were able to bring  
15 those insights back to the City to be able to work on policies,  
16 et cetera. And so we see community engagement as a direct link  
17 to community oversight.

18 And being from Oakland, we have gone through our own  
19 oversight process. And it took decades, quite frankly, because  
20 we had the privilege to begin with recommendations from the  
21 COAB. We need to honor those community members that invested  
22 in that process and resulted in recommendations. So because of  
23 that, we weren't -- we felt we didn't have to come in and  
24 mandate out recommendations the first year, and, quite frankly,  
25 just saw community engagement as a focal point to be able to

1 build on for later dates. So I just wanted to provide some  
2 context to -- and I think -- the last thing that I would like  
3 to mention was the purpose of the retreat and training  
4 mechanisms -- one thing that we felt was necessary was this  
5 community oversight effort is in the nation. And there are  
6 some cities that have been a little bit more progressive and  
7 some that are further behind.

8 One thing that we wanted to do in the retreat and  
9 throughout this year is to bring our process in alignment with  
10 those best practices that have really been supportive for all  
11 respective stakeholders.

12 THE COURT: Let me add to that.

13 MS. LEE: Yes.

14 THE COURT: And I appreciate the need for the  
15 retreat, the orientation, the training that needs to take place  
16 in the beginning and the environment in which it needs to take  
17 place.

18 I also heard an interesting comment from one of our public  
19 commenters that as we also talk about the history of the  
20 settlement agreement and that the needs and objectives of the  
21 settlement agreement, which really are multifaceted, you can  
22 hear there's a number of different pieces to it, a number of  
23 different objectives.

24 The comment that was made was they'd like some public  
25 participation into that part of the orientation or training.

1           So one possibility -- and, by the way, I'm not going to  
2 micromanage what is done -- but I want to just channel back one  
3 of the comments that I heard, and that is that perhaps as you  
4 do your orientation, retreat, history, in a relatively private  
5 environment for the needs that that environment will foster,  
6 there may also be a benefit to doing a part two where we then,  
7 as a part two -- maybe, you know, the advanced class on the  
8 history and objectives of the settlement -- bring in and invite  
9 members of the public to continue that discussion. And to that  
10 extent, maybe one has one's cake and eats it too.

11           Just something to think about.

12           MS. LEE: I agree. It's in the works.

13           THE COURT: Thank you, Mr. Lee. I appreciate you  
14 being here, sir.

15           MS. LEE: Thank you.

16           THE COURT: All right. I will invite counsel for any  
17 final remaining comments, and I will begin with Mr. Vannier.  
18 And you're welcome to address any issues that you wish.

19           MR. VANNIER: Thank you, Your Honor. I will touch  
20 upon the first questions from about an hour ago that you asked  
21 me. But, first of all, I wanted to just formally say that the  
22 City at this time renews the joint stipulated motion to enter  
23 the amended settlement agreement. And we join in the arguments  
24 that were made by Mr. Hager for the United States.

25           In particular, I just want to highlight briefly that the



1 standards for amending the settlement agreement were adopted as  
2 part of the agreement itself and were found by this Court to be  
3 fair, adequate, and reasonable at that time. And those  
4 standards are governed by paragraphs 172 and 184 of the amended  
5 settlement agreement, which specifically pertains to amendments  
6 being acceptable if they are necessary to achieve and sustain  
7 the intended outcome of the settlement agreement and that they  
8 are stipulated to by the parties. And we have that in this  
9 case. And so, as a matter of law, it is our position that the  
10 amendments should be entered at this time.

11 Now, turning to the, I guess, the more general questions  
12 that this Court asked earlier, one of the things that has  
13 become apparent, I think, through some of the comments here is  
14 there is some confusion about what acceptance means. We are  
15 not here talking about whether the City is in substantial  
16 compliance with the PCCEP plan or the PCCEP amendments or even  
17 whether the PCCEP works at this point, because, as Your Honor  
18 knows, the PCCEP has not met at this point, and we understand  
19 that.

20 But whether the PCCEP works or whether the City is in  
21 substantial compliance is a question of, in fact, compliance  
22 under the settlement agreement. It is not a question that is  
23 relevant to the legal determination of whether the settlement  
24 agreement should be entered at this time -- I'm sorry, the  
25 amendments should be entered at this time.

1 And for the reasons I previously stated, as a matter of  
2 law, the parties are entitled to the amendments being entered.

3 Now, at a -- I guess a more substantive level it is also a  
4 matter of fairness and clarities, not only to the parties, but  
5 to the members of the PCCEP.

6 As Mr. Hager alluded to, what conditional approval means  
7 is simply that if, say, six months down the line, if this Court  
8 were to decline to enter those amendments on a permanent basis,  
9 we then default back to where we are two years ago at this  
10 point with the COAB, which is a process that, as Mr. Hager  
11 noted, despite the good faith efforts of the parties, had  
12 proved not workable at that time.

13 THE COURT: I don't think that's exactly right. I  
14 don't think it's we default back to the COAB. The parties  
15 disbanded the COAB. We default back to a situation where the  
16 City is in breach -- material breach of the settlement  
17 agreement.

18 MR. VANNIER: That's correct, Your Honor.

19 And so what I'm trying to get to is that there is a need  
20 for clarity, not only for the City and the United States, but  
21 also for the --

22 THE COURT: I probably did that.

23 MR. VANNIER: -- for the PCCEP itself and for the  
24 citizens of the City of Portland to know what exactly the  
25 parties -- what the City is going to have to be in substantial

1 compliance with.

2 And there's a need for certainty at that point. The --  
3 the PCCEP cannot be in a position where six months from now  
4 there is a possibility that it will have the rug pulled from  
5 under it. There is a need for permanency.

6 Now, turning to Your Honor's questions earlier, what does  
7 a fully functioning PCCEP look like? The answer to that is  
8 provided by the settlement agreement itself. It is a PCCEP  
9 that in the opinion of the monitor, who is the United States,  
10 satisfies the criteria outlined in Section IX of the settlement  
11 agreement.

12 Your Honor's question was how long after the first meeting  
13 will that evaluation take. And that's, again, up to the  
14 monitor. That's up to the United States.

15 Now, what I do want to point out as a practical matter --  
16 because I understand Your Honor's concerns about not losing the  
17 momentum that has happened up to now and having this sort of  
18 public conversation about the settlement agreement amendments  
19 and the -- and the progress that the City is making towards  
20 substantial compliance.

21 Now, as Your Honor knows, we already have a date. Sounds  
22 like it might actually be moved, unfortunately; but we have a  
23 date set in April for the next annual status conference.

24 THE COURT: Let me double-check.

25 MR. VANNIER: I may be mistaken.

1 THE COURT: I don't see it.

2 MR. VANNIER: I thought a date had been set. I  
3 apologize.

4 We will be back, as Your Honor has said, for the next  
5 annual status conference. And I can commit on behalf of the  
6 City, the City will be presenting about the PCCEP, how it has  
7 worked up to them. By that point, if the hearing is in June,  
8 there will have been, what, if I'm counting correctly, seven  
9 PCCEP meetings.

10 THE COURT: Seven months of PCCEP experience.

11 MR. VANNIER: Exactly, Your Honor.

12 And at that time, the U.S. DOJ will be able to give you  
13 their assessment. The COCL will be able to weigh in on its  
14 perspective of that.

15 But, again, whether the PCCEP works as Your Honor stated  
16 or whether the City is in substantial compliance, that's a  
17 separate issue than whether these amendments should be entered  
18 at this time.

19 And for the reasons I've explained, as a matter of law, we  
20 believe that the parties are entitled to that certainty. We  
21 believe that is the fair and reasonable thing to do, and we'd  
22 ask Your Honor to enter those amendments at this time.

23 THE COURT: All right. I appreciate your argument.

24 I don't think that I have enough information at this time  
25 to make an informed decision on whether or not to enter the

1 final amendments now. So I will continue with my conditional  
2 approval.

3 I am hopeful that when we all get back together again  
4 there will much more information that I have and have received  
5 and that that information will be sufficiently positive that I  
6 will feel comfortable that the amendments are consistent with  
7 the criteria set forth in the settlement agreement, including  
8 any amendments that have already been approved.

9 I probably shouldn't share the following with you, but I'm  
10 going to anyway. There is an old story -- I don't know whether  
11 it's true or just apocryphal about when President Nixon was  
12 first going to China and he wanted to find some way to break  
13 the ice -- I think it was with Chairman Mao at the time --  
14 before getting into their controversial topics that divided  
15 them. To find some area of common ground that they could talk  
16 about in a noncontroversial way, and I know that at least it's  
17 been reported that President Nixon was a student of world  
18 history. He had been informed that Chairman Mao was also a  
19 student of world history.

20 So at their first meeting -- at least the way I heard the  
21 story, President Nixon says to Chairman Mao, "Do you think that  
22 the French Revolution has been good or bad overall for the  
23 world?"

24 And Chairman Mao's response was, "It's too soon to tell."

25 So let's talk about when we get back together. Frankly,

1 looking at my calendar, I don't think we have a meeting in  
2 April.

3 Mary, do you know?

4 DEPUTY COURTROOM CLERK: I don't think we have it  
5 scheduled now.

6 THE COURT: Okay. Looking at my trial calendar,  
7 would it be feasible -- could we find a time in June, perhaps  
8 even maybe the first half of June, for us to have our -- if you  
9 want to call it an annual status conference, fine; if you want  
10 to call it our next interim status conference, that's fine.

11 And I would be very hopeful that we would have enough  
12 information from all of the parties, including the intervenor,  
13 including the amicus curiae, Albina Ministerial Alliance  
14 Coalition, the amicus curiae Mental Health Alliance. Maybe  
15 even some input from the COCL, as well as a recommendation from  
16 the PCCEP, as to how things are going and whether they've met  
17 some of the qualitative and quantitative criteria that we have  
18 been discussing today to see if this new direction is working.  
19 So I -- I am hopeful that we will have enough information that  
20 the Court can make a decision at that time.

21 Would sometime in the first part of June work for folks?  
22 Any preferences.

23 MR. GEISSLER: My only preference, Your Honor, is it  
24 not be on a Monday or a Friday.

25 THE COURT: Not a Monday or a Friday.

1 MR. GEISSLER: Yes, Your Honor.

2 THE COURT: Mary, what looks good on our calendar?

3 DEPUTY COURTROOM CLERK: We could do June 6th at  
4 9:00 a.m.

5 THE COURT: One second.

6 You know, let me change that for a second. I'm just  
7 worried that the meeting, the jury instruction meeting the  
8 previous week will probably get moved to that. We can make --  
9 I'm also thinking about June 13th, notwithstanding that other  
10 matter that's on our calendar.

11 DEPUTY COURTROOM CLERK: Okay.

12 THE COURT: Do you all have any particular  
13 preferences as between Thursday, June 6th, or Thursday,  
14 June 13th? I guess June 6th would work fine.

15 June 6th. Will that work for you all?

16 MR. GEISSLER: It will, Your Honor, thank you.

17 MR. VANNIER: Yes, Your Honor.

18 MS. REEVE: It will, Your Honor.

19 THE COURT: All right. Thank you. Schedule our --  
20 "annual" just seems a funny word to use in these days in this  
21 context. So our next interim status conference will be June 6,  
22 2019, start at 9:00 a.m.

23 And is there anything else to be addressed at today's  
24 hearing? I'll start with the City.

25 MR. VANNIER: Thank you, Your Honor. Yes. I was

1 wondering if Your Honor could clarify what it views as the  
2 criteria that will have to be satisfied for full approval in  
3 June.

4 THE COURT: That's a very interesting question, and  
5 let me reflect on all of the comments that were made today, and  
6 I will see if I'm able to put something in writing and send it  
7 to you.

8 MR. VANNIER: Thank you, Your Honor.

9 THE COURT: Thank you. Anything else from the United  
10 States?

11 MR. HAGER: Yes, Your Honor. I just wanted to make  
12 clear that the parties can still perform under the  
13 conditionally approved amendments; and, secondarily, that the  
14 United States and the compliance officer, as we prepare our  
15 annual reports and quarterly reports of the compliance officer,  
16 that we can assess compliance as to the amended or red-lined  
17 agreement, at that ECF 171 as opposed to the original  
18 agreement.

19 THE COURT: Thank you for that clarification. Not  
20 only do you have the Court's permission, I think that's a very  
21 wise idea.

22 I would also note, too, that -- and I'll leave this to the  
23 discretion of the parties, but as I think it was --  
24 Mr. Handelman noted in his comments on behalf of Portland  
25 Copwatch, paragraph 146 of the revised agreement requires the



1 new board -- the PCCEP to be selected, trained, and to advise  
2 the content of a new community survey within four months of the  
3 agreement being amended, technically, that part of the  
4 agreement hadn't been amended. I will say that if you choose  
5 to go forward with a new community survey, I certainly won't  
6 find that to be in violation of anything.

7 Similarly, if you don't choose to go forward with that  
8 community survey, that's technically not a violation of  
9 anything, but it might be a good idea.

10 So I'll leave that to the discussion and discretion of the  
11 parties.

12 MS. REEVE: Your Honor, we will be moving forward  
13 with the community survey. Thank you.

14 THE COURT: Thank you. Good idea.

15 Anything else from the United States?

16 MR. HAGER: No. Thank you, Your Honor.

17 THE COURT: Anything else from the intervenor,  
18 Portland Police Association?

19 MR. KARIA: No, sir.

20 THE COURT: Thank you.

21 Anything further that we should discuss or address from  
22 the Albina Ministerial Coalition?

23 MS. CHAMBERS: No, thank you, Your Honor.

24 THE COURT: Anything else that should be addressed  
25 from the perspective of the Mental Health Alliance?

1 MR. CHAVEZ: Not at this time, Your Honor. Thank  
2 you.

3 THE COURT: Thank you all very much. I appreciate  
4 everyone's participation and contributions and your indulgence  
5 into going into the lunch hour. We're adjourned with this  
6 hearing today. I look forward to hearing from you all and  
7 seeing you on June 6th.

8 (Hearing concluded.)  
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C E R T I F I C A T E

United States of America, v. City of Portland,

3:12-cv-02265-SI

STATUS CONFERENCE

October 4, 2018

I certify, by signing below, that the foregoing is a true and correct transcript of the record, taken by stenographic means, of the proceedings in the above-entitled cause. A transcript without an original signature, conformed signature, or digitally signed signature is not certified.

/s/Jill L. Jessup, CSR, RMR, RDR, CRR, CRC

Official Court Reporter  
Oregon CSR No. 98-0346

Signature Date: 11/2/18  
CSR Expiration Date: 9/30/20